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ABSTRACT

This report presents the national standards for juvenile justice and delinquency prevention developed by the Task Force on Juvenile Justice and Delinquency Prevention appointed in April 1975. The standards run the spectrum from guidelines for the police in areas such as preventive patrols, issuance of citations, and interrogation to post-dispositional monitoring of persons after release from detention. There are elaborate recommendations for the structuring of the family court, the scope of duties and responsibilities of every component of such court, and criteria to be followed before permitting an endangered child to be removed from the care and custody of parents in the home environment. The report treats at length the subject of preadjudication processing, including areas such as detention, the dispositional hearing itself, and the selection and training of judges and lawyers engaged in the day-to-day handling of cases. There is an entire section of this report devoted to State and local planning and evaluation in the juvenile justice system. Standards in this portion of the report deal with the development of programs that take realistic cognizance of the present situation in a particular region, the data necessary for meaningful decisionmaking, and the establishment of an evaluation research capability. (Author)

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National Advisory
Committee on
Criminal Justice
Standards and Goals

Juvenile Justice and Delinquency Prevention

Report of the Task Force on Juvenile Justice and Delinquency Prevention

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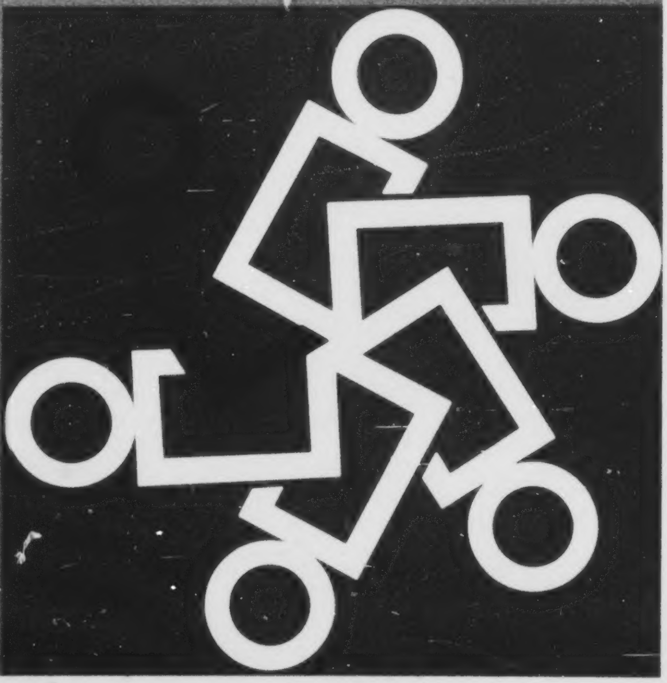

This volume, *Juvenile Justice and Delinquency Prevention,* is one of five reports of the National Advisory Committee on Criminal Justice Standards and Goals.

The National Advisory Committee was formed by the Law Enforcement Assistance Administration (LEAA) in the spring of 1975. Governor Brendan T. Byrne of New Jersey was appointed Chairman of the Committee. Charles S. House, Chief Justice of the Connecticut Supreme Court, was named Vice-Chairman. Other members were drawn from the three branches of State and local government, the criminal justice community, and the private sector. Four of the 12 members were elected officials of general government.

The purpose of the Committee was to continue the ground-breaking work of its predecessor organization, the National Advisory Commission on Criminal Justice Standards and Goals. In 1973, the Commission published a six-volume report setting forth standards and goals for police, courts, corrections, the criminal justice system, and crime prevention. Two years later, the National Advisory Committee addressed several additional areas of concern: juvenile justice and delinquency prevention, organized crime, research and development, disorders and terrorism, and private security. Task forces were established to study and propose standards in each of these areas. The task forces were comprised of a cross section of experts and leading practitioners in each of the respective fields.

The Committee reviewed the standards proposed by each task force and made suggestions for change, as appropriate. The process was a dynamic one, with an active exchange of views between task force and Committee members. In almost all instances, the Committee and the task forces ultimately concurred on the standards adopted. In a few cases, there were differences in philosophy and approach that were not resolved. Where such discrepancies exist, each view is presented with th Committee's position noted either in the Chairman's introduction or in a footnote to the particular standard.

Standards and goals is an ongoing process. As standards are implemented, experience will dictate that some be revised, or even discarded altogether. Further research and evaluation will also contribute to growing knowledge about what can and should be done to control crime and improve the system of criminal justice.

Although LEAA provided financial support to both the Committee and the task forces, the recommendations and judgments expressed in the reports do not necessarily reflect those of LEAA. LEAA had no voting participation at either the task force or Committee level. And, as with the 1973 report of the previous Commission, it is LEAA's policy neither to endorse the standards nor to mandate their acceptance by State and local governments. It is LEAA policy, however, to encourage each State and locality to evaluate its present status in light of these reports, and to develop standards that are appropriate for their communities.

On behalf of the Law Enforcement Assistance Administration, I want to thank the members of the National Advisory Committee and the task forces for their time and effort. Those members of the Committee who did "double-duty" as task force chairmen deserve special thanks.

I want to express LEAA's sincerest gratitude to the Chairman of the National Advisory Committee, Governor Byrne. Much of the success of this undertaking is directly attributable to his leadership, hard work, and unflagging good humor.

Finally, it is also appropriate to pay tribute to William T. Archey of LEAA for his outstanding and dedicated service to the Committee and for bringing this entire effort to such a successful conclusion.

Richard W Velde

RICHARD W. VELDE
Administrator
Law Enforcement Assistance Administration

Washington, D.C.
December 1976

A wise person once noted that all children commence life as completely asocial beings. They cry at night, wet the bed, and confiscate any item that interests them. The Task Force on Juvenile Justice and Delinquency Prevention has struggled with the realization that there is a relatively short period of time to shape this asocial being into a responsible member of society.

An effort has been made to determine the breaking point at which it must be recognized that certain conduct of young people is to be regarded as criminal. There has been reluctance to ascertain that breaking point, because of acknowledged failure in procedures for dealing with adult offenders, the wide variation of maturity among children, and the historic realization that children are a "special case." Members of the Task Force, recognizing this reluctance, carefully identified the difference between those juveniles whose offensive conduct brings them into the system and those whose conduct or status requires society's intervention, regardless of the lack of culpability of conduct. In delineating community resources that can be brought to bear on this problem, the Task Force has not fully assessed the difficult political decisions involved in the allocation of resources. It is recognized that such decisions must be made in the real world and that in tough economic times, others must judge competing priorities. It is believed, however, that such considerations do not detract from the validity of the analysis.

This set of standards and goals on juvenile justice and delinquency prevention is destined to play a significant role in the national effort to reduce criminality and encourage a consistent and approved jurisprudence for children and youth. The fact is that the number of offenses committed by youthful offenders has been growing at an alarming rate. From 1960 to 1974, arrests of males and females under 18 increased by more than 140 percent. A major portion of those arrested for crimes that generally are known as felonies in adult law have been, in recent times, youths 17 and under and even larger numbers are involved with the juvenile justice system as a result of lesser acts or the neglect and abuse of their caretakers. Solutions to these problems have not been readily forthcoming. Few would deny that the causes of delinquency are often related to socioeconomic considerations. How to deal with the situation has been a matter of continued debate. Neither the Task Force nor the National Advisory Committee on Criminal Justice Standards and Goals has been unanimous with respect to all standards set forth herein. But unanimity, however desirable from the standpoint of a recommendatory body, is not of paramount importance. What is important is that a comprehensive and innovative report has been produced, which will be a welcome blueprint for State and local government action.

As the title of the Task Force indicates, two major subjects have been approached: delinquency prevention and the system of juvenile justice. The Task Force has developed a new concept in this report relating to "endangered children." This notion recasts our traditional neglect and dependency jurisdiction with a newly awakened restraint on unnecessary coercive intervention. The Task Force concluded that the absence of such restraints was contradictory to societal values of family autonomy and privacy. Thus, the approach of the Task Force has been to identify through appropriate standards those children for whom services should be made available. However, intervention programs are constructed with a strong awareness of the limitations on the State's ability to improve a child's living environment and the necessity of soberly assessing the probability of such improvement prior to intervention. The Task Force notes that by focusing State intervention efforts on cases where specific harm to a child has been identified, the State can insure that the limited resources available will first reach those children in the greatest danger. This section also addresses the urgent need for regular monitoring of children removed from families to assure that they will be returned to a stable and permanent home as quickly as possible, preferably to their biological parents but, if abandoned or so severely abused or neglected that return is impossible, then to a new family by adoption.

The Task Force creatively addressed the current problems in dealing with so-called "status offenders." Less vague definitions, protection against inappropriate dispositions, and a recognition of the complexity of parent, child, and services issues make the proposed new approach to these questions an important contribution. A well designed approach to "families with service needs" emerges from the standards dealing with status offenses.

Attention is to be focused on the whole problem, not just the child's overt behavior. "Nofault" concepts, new to the law, are adopted for use here. Cases are to come within the jurisdiction of the court only when noncoercive alternatives have been exhausted.

A major proposal of the Task Force with respect to the juvenile justice system is the creation of uniform standards for the disposition of juveniles charged with the commission of delinquent acts. The Task Force focused primary attention on a set of uniform standards to establish a clearly defined judicial mechanism, clothed with contemporary concepts of fairness and due process, as extended to the juvenile in recent decisions of the U.S. Supreme Court.

There is total agreement that the best way to deal with the delinquency problem is to prevent it. A fundamental belief of the Task Force and the members of this Committee is that unless specific suggestions are made for the control of the causative factors of delinquency, little overall progress in terms of statistical delinquency reduction reasonably can be anticipated. In response to that recognition, the Task Force developed a series of standards involved with such areas as comprehensive public health services, family counseling, day care centers, and improvement of educational and recreational facilities. In addition, recommendations are made for the development of specialists within police departments—officers have particularized knowledge of ways and means of dealing with juveniles and especially of dealing with them prior to their becoming involved with the judicial system.

The juvenile justice system has been and continues to be the subject of divergent viewpoints—not as to the need for improvement of the system but rather in terms of defining "juveniles" and deciding how they should be treated once they have come to the attention of the justice system. Traditionally, juveniles have been cloaked in the *parens patriae* jurisdiction of the courts. They have been recognized and treated as young people with their lives still ahead of them. As a result, efforts have been made to keep them apart from the adult system of justice and to treat them differently and specially. Much of this is based on the common law rule, sometimes extended by statute, that below certain ages children are incapable of committing "crimes."

Unfortunately, the traditional juvenile justice system has produced some abuses. Instead of providing greater overall protection to those charged with juvenile acts, some jurisdictions, whether or not intentionally, ignored the elements of due process for such youngsters. The result, in 1967, was the landmark *Gault* case, decided by the U.S. Supreme Court. The case held that the Constitution requires "fundamental fairness" in delinquency proceedings.

Certain commentators have urged that the *Gault* decision threatens to transform the young offender from a "ward of the state" to the customary defendant, bent on pursuing the adversarial rights accorded to the adult counterpart. The result, they fear, will be to convert youthful law violators into sophisticated criminals.

Some members of the National Advisory Committee expressed the view that while there should be specialized disposition of juvenile offenders, adjudication of juveniles age 15 and over charged with crimes should be the same as with adults. Those who subscribe to this view believe that, in this manner, the juvenile would be afforded the total panoply of constitutional rights, including the right to public trial by jury. The expectation would be that such adjudication would bring about greater respect by juveniles for the criminal justice system. As to youngsters under the age of 15, the proponents of this view support the traditional notion of *parens patriae* and suggest that the holding of *Gault* is unsound for persons in that category. The great diversity in maturation rates of course makes any arbitrary cutoff point subject to severe criticism. The standards, therefore, address the circumstances of "waiver" of certain juveniles into the adult process as an alternative to a low absolute cutoff of jurisdiction.

There was also the view expressed by some members of the Committee that the standards relating to dispositional treatment erroneously ignore the value of penal sanctions. These members believe that punishment remains a valid concept in the criminal justice system as applied to both youngsters and adults. They would maintain the concept of punishment to a greater extent than set forth in the standards, conditioned, of course, upon a fair and just administration of such punishment.

It is true, however, that these standards introduce methods of relating dispositions to offenses and eliminating gross inequality of disposition to a far greater extent than current practice.

Although it is recognized that reasonable minds can differ in this area, the consensus among those who have studied the problem is that recognition must be given to the fact that juveniles commit delinquent acts—not crimes; they are taken into custody—not arrested; and they are subjected to disposition—not sentenced. In short, we have come to know that the disposition of the juvenile delinquent from the inception of his involvement with such delinquency must be in a specialized atmosphere that takes particular cognizance of age and of the fact that when dealing with youngsters, certain kinds of behavior are particularly indigenous to them. Status offenses, such as truancy and running away from home, are areas that are not illegal for adults but that are unlawful conduct for minors. All of this points up the need for the specialized approach and makes especially valuable the suggestion of a "families with service needs" approach to the acts now referred to as status offenses.

In an area so often fraught with rhetoric and generality, this report is refreshingly specific. The standards run the spectrum—from guidelines for the police in areas such as preventive patrols, issuance of citations, and interrogation to post-dispositional monitoring of persons after release from detention. There are elaborate recommendations for the structuring of the family court, the scope of duties and responsibilities of every component of such court, and criteria to be followed before permitting an "endangered child" to be removed from the care and custody of parents in the home environment.

The report treats at length the subject of preadjudication processing, including areas such as detention, the dispositional hearing itself, and the selection and training of judges and lawyers engaged in the day-to-day handling of cases.

There is an entire section of this report devoted to State and local planning and evaluation in the juvenile justice system. Standards in this portion of the report deal with the development of programs that take realistic cognizance of the present situation in a particular region, the data necessary for meaningful decisionmaking, and the establishment of an evaluation research capability.

The Committee is truly indebted to the Task Force for its dedication and for the scholarship that produced this report. The future will determine the effectiveness of the standards that have been articulated. There is a profound potential for progress created by this report. The Committee is proud to have been a part of the endeavors that produced it.

Brendan Byrne

BRENDAN T. BYRNE
Chairman
National Advisory Committee
on Criminal Justice Standards
and Goals

Trenton, N.J.
December 1976

Preface

This report presents the national standards for juvenile justice and delinquency prevention developed by the Task Force on Juvenile Justice and Delinquency Prevention appointed in April 1975, by Mr. Richard W. Velde, Administrator of the Law Enforcement Assistance Administration (LEAA). The Task Force was composed of 14 persons, representing a wide variety of professional services and disciplines serving youth. All of the Task Force enthusiastically approached this assignment to expand the earlier efforts of LEAA in setting standards for the criminal and juvenile justice system. The Task Force believed that the task represented an outstanding opportunity to establish standards that would insure fairness and consistency and assure adequate levels of service to deal with the problems of juvenile justice throughout the Nation.

This final report was enriched by the discussion and contributions of a diverse and talented Task Force, representing the judiciary, law enforcement, corrections, psychiatry, education, the law, social work, research, and citizens who have had extensive experience in volunteer services. It presents, with due consideration for rural and urban differences, the best cumulative judgment of the Task Force membership regarding desirable standards for juvenile justice and delinquency prevention. Each standard was shaped by an intense process of analysis, study, group examination, and discussion. Task Force members worked under frequently stringent deadline constraints to produce standards that are realistic, timely, and fulfilling of the needs of the juvenile justice system.

The standards presented in this report emphasize general principles rather than specific requirements and procedures. The Task Force believes, however, that they represent a practical blueprint for positive State and local action. Because of great diversity from one area to another, the Task Force consciously avoided specificity, and, instead, recognized that the States and localities themselves can best determine how to achieve the recommended standards and goals.

The Task Force is particularly proud of the standards that appear in the Judicial Process section of this report and in the chapter on delinquency prevention. In effect, the standards in the Judicial Process section form the basic structure for juvenile code reform. The chapter on delinquency prevention is a pioneering effort that presents the first comprehensive national standards for delinquency prevention. These standards offer substantial guidance to States and localities in the implementation of delinquency prevention programs.

On behalf of the Task Force, I wish to express our appreciation to LEAA for giving us the opportunity to prepare these standards. It is with considerable pride and satisfaction that I, on behalf of the Task Force, commmend these standards and goals for careful consideration.

Allen F. Breed

ALLEN F. BREED
Chairman
Task Force on Juvenile Justice and
Delinquency Prevention

Sacramento, Calif
December 1976

ACKNOWLEDGMENTS

The funds to support the work of the Task Force on Juvenile Justice and Delinquency Prevention were provided by the National Institute of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration (LEAA), U.S. Department of Justice. Thus, the Task Force is indebted to the Federal Government and, thereby, to the taxpayers of this Nation for making it possible to conduct this work.

Several LEAA employees deserve special recognition for their contributions to this effort. The Task Force is particularly indebted to Richard Van Duizend, who has served patiently as our mentor and project monitor. He provided valuable intellectual support and proved to be a most energetic, capable, and interested staffer. The contributions of his predecessor, John Greacen, who helped initiate the work of the Task Force, and the overall guidance provided by William T. Archey of LEAA, also must be acknowledged here.

The work of the Task Force also was assisted materially by the organizational and staff support provided by the American Justice Institute (AJI). This organization served as grantee and handled Federal funds, provided logistical support, and assembled staff and consultant assistance for the Task Force. Dr. Harland L. Hill, Vice President of AJI, took particular interest in this project and attended many of the Task Force meetings.

Special acknowledgement is also extended to Richard Lew of the California Department of the Youth Authority, who so unselfishly, and on his own time, attentively served the Task Force Chairman, and to numerous other employees of that department who helped with various phases of the project.

Although there are many contributors who need to be thanked, the Task Force wishes specifically to acknowledge the especially outstanding contribution of several of its consultants: Barry Krisberg, who led the consultant effort to assist the Task Force in the delinquency prevention area; Michael S. Wald, who so expertly advised the staff and Task Force in the area of Endangered Child standards; Stanley Z. Fisher and Claudia Angelos, for their responsiveness and sensitivity to the issues and for their outstanding legal scholarship; and James Manak and the Honorable Ted Rubin, for their fine contributions to Part 4, Judicial Process, of the report and for their helpfulness at Task Force meetings.

These consultants, together with the contributions of the remaining consultants, the staff, research assistants, and clerical staff, did a massive amount of work for the Task Force. Although there are too many contributors to thank here individually, their names are listed at the back of this report. The Task Force sincerely hopes this in some way conveys the appreciation felt by the Task Force and provides the recognition they deserve.

Masthead

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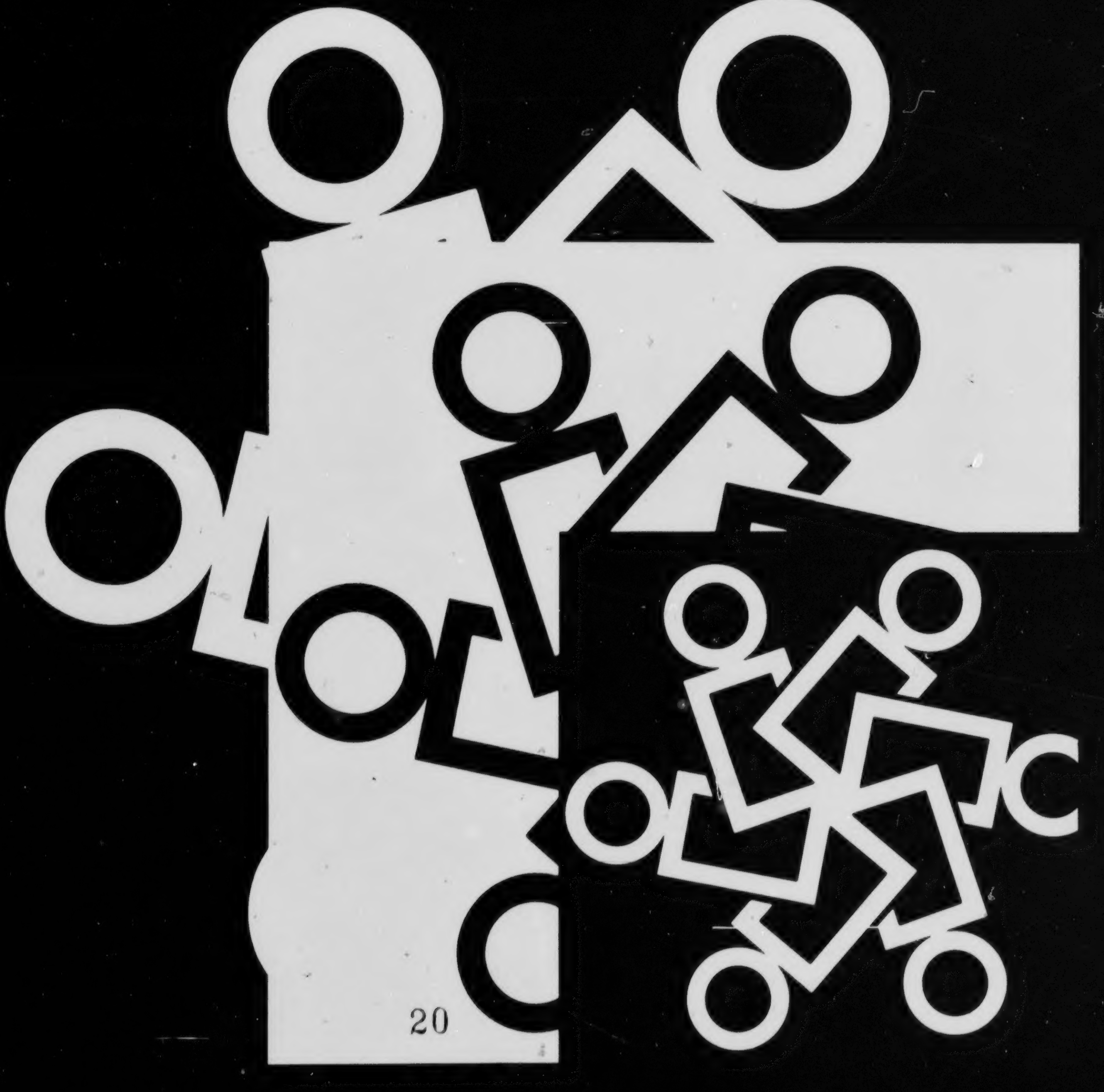

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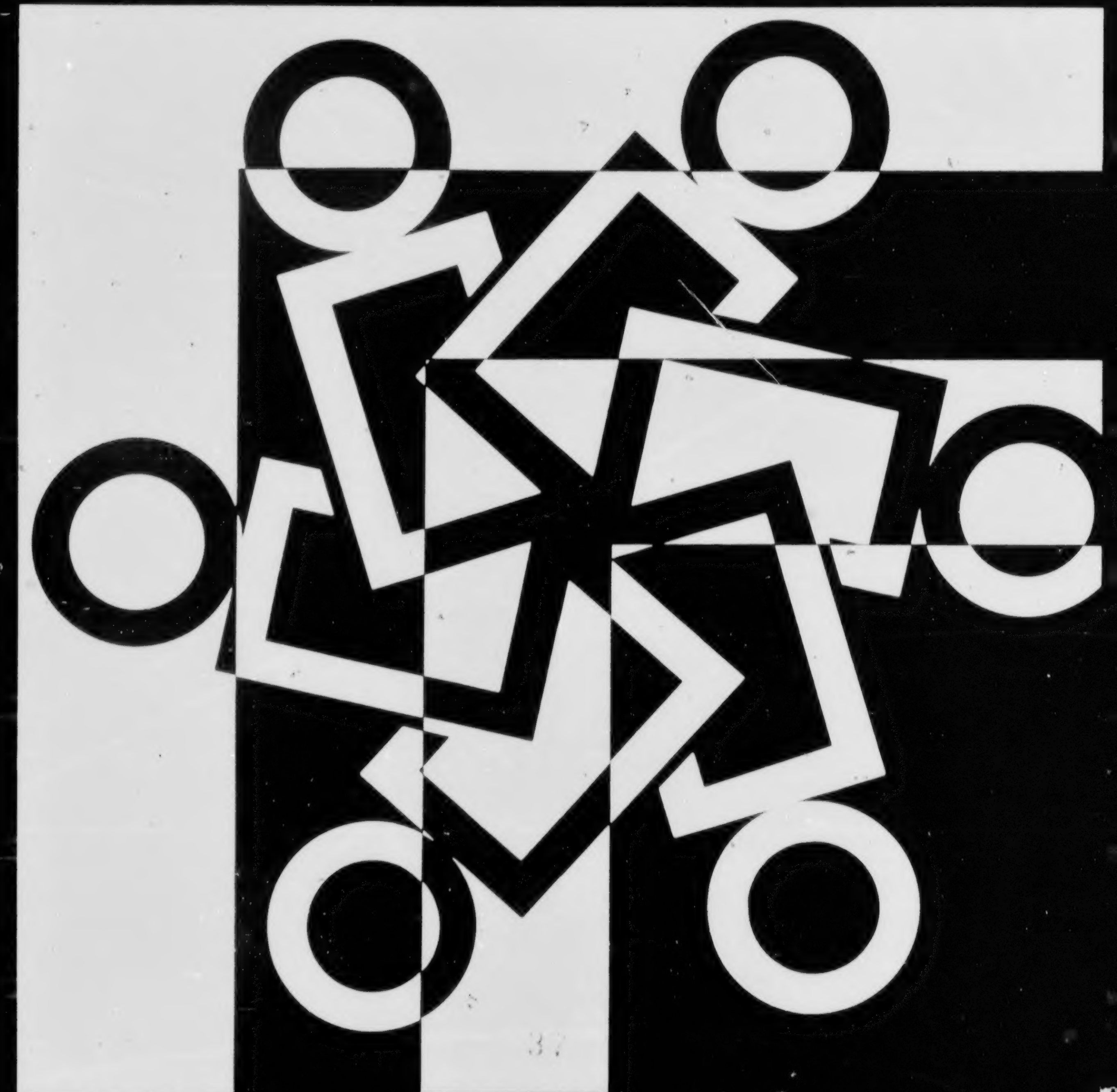
Part 1
Juvenile Justice and Delinquency Prevention in the United States—Introduction and Overview



Since its beginning in 1968, one of the most significant achievements of the Law Enforcement Assistance Administration (LEAA) has been the work of the National Advisory Commission on Criminal Justice Standards and Goals. This Commission took a comprehensive look at the current system of criminal justice and derived some specific guidelines to improve it. But unfortunately, this study paid little attention to the juvenile component of the justice system, and other Federal attempts to attack or even understand this problem have been few.

The situation is ironic, because for many years the growth rate of juvenile delinquency has been outstripping that of adult crime by wide and frightening margins. Until recently, these statistics have been greeted nationally only with apathy.

The Juvenile Justice and Delinquency Prevention Act of 1974[1] was, in part, a congressional effort to correct this situation. This report also is a part of that remedial strategy. Its purpose is to complement the original adult-oriented standards and goals of the National Advisory Commission on Criminal Justice Standards and Goals with this juvenile supplement.

JUVENILE DELINQUENCY—A MAJOR NATIONAL PROBLEM

To state that America has a serious crime problem should be unnecessary. National polls of citizen concerns have placed crime at or near the top for several years. What is much less well known, however, is that a large number of those arrested for felony type (Part I) offenses are youths 17 years of age and under. In 1974, juveniles accounted for almost one-third of all Part I arrests nationwide. In the cities, they accounted for almost one-half of such arrests. Figure 1 illustrates the problem.[2]

Long-Term Arrest Trends

An analysis of long-term arrest trends reveals even more startling information. Figure 2 presents statistics extrapolated from the Federal Bureau of Investigation's Uniform Crime Reports for 1974.

The data, broken down by adult and juvenile and male and female offenders, represent the long-term 1960-1974 increase in the gross incidence of arrests. Because the data are derived from reports received from jurisdictions constituting about one-third of the national population, they probably are overrepresentative of urban areas and distort the true national picture. On the other hand, two important factors not apparent from the percentages shown have been at work over the years. First, the rate of juvenile population growth has been decreasing relative to the growth rate of the adult population. This could mean that a larger proportion of our youth are becoming involved in juvenile crime. Second, a large measure of the increase in adult crime may be attributed to delinquent juveniles who, having passed their 18th birthday, have shifted their crime and violence into the adult statistical columns.

The statistics on the trend of juvenile crime are frightening by themselves, but the real effects on society may be even more shocking than the numbers would lead us to believe.

Juvenile Justice and the Minorities

A particularly disturbing aspect of the current and recent trends in juvenile delinquency is the substantial overrepresentation of minorities. While, generally, minorities are overrepresented by a factor of three to three-and-a-half times their incidence in the general population, they are overrepresented even more in statistics on crimes of violence. Figure 3 reflects data from the 1974 Uniform Crime Reports.

In 1974, in a report commissioned by the California Youth Authority, Howard Ohmart analyzed the ethnic distribution of youth in various stages in

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[1] Juvenile Justice and Delinquency Prevention Act of 1974, 42 USC 5601 *et seq.*

[2] Federal Bureau of Investigation. *Uniform Crime Reports, 1974.* Washington, D.C.: Government Printing Office, 1975.

Figure 1. Percent of 1974 Arrests Represented by Juveniles (Age 17 and Under)

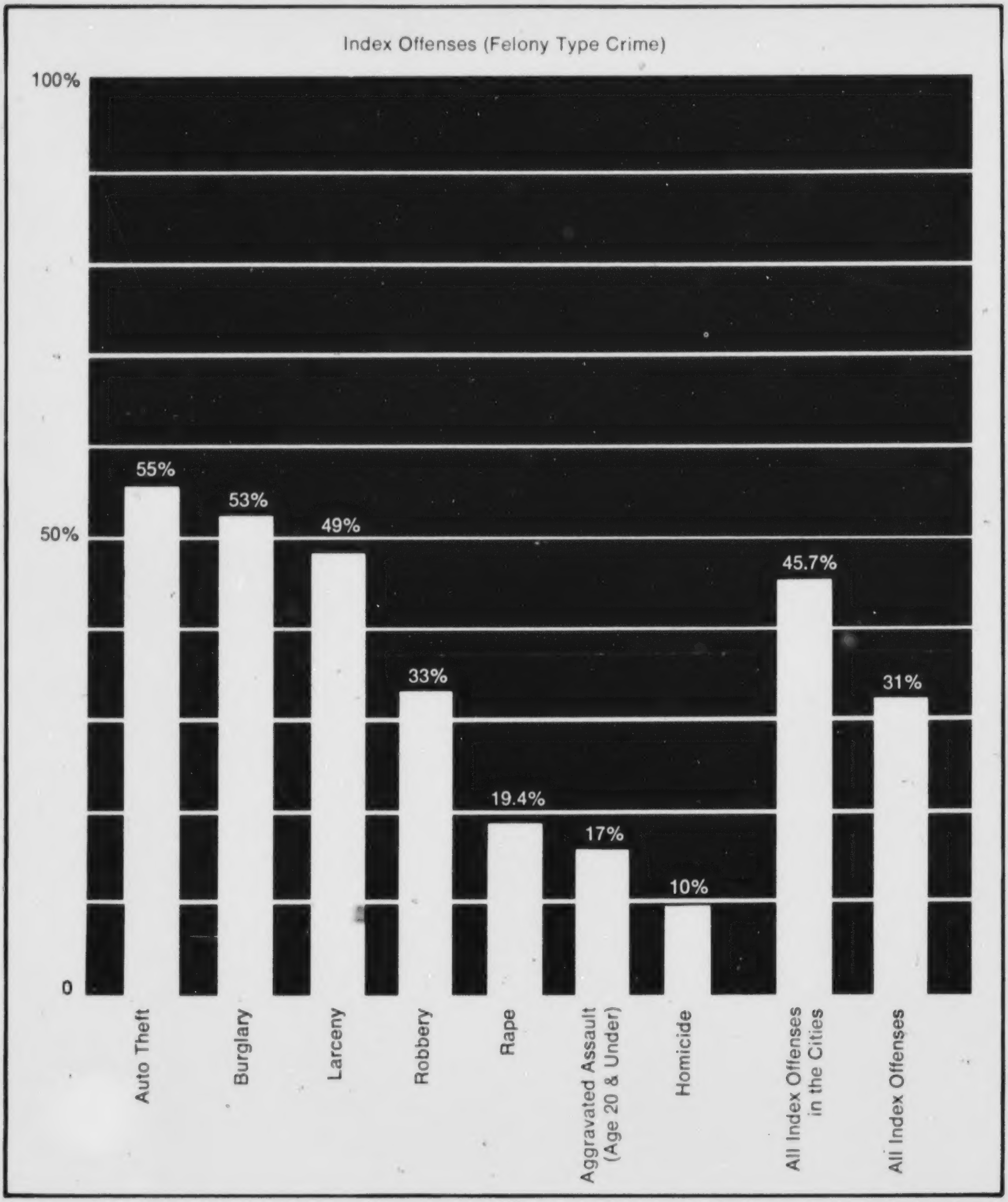

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Figure 2. Arrest Trends—Percent of Changes 1960-1974)

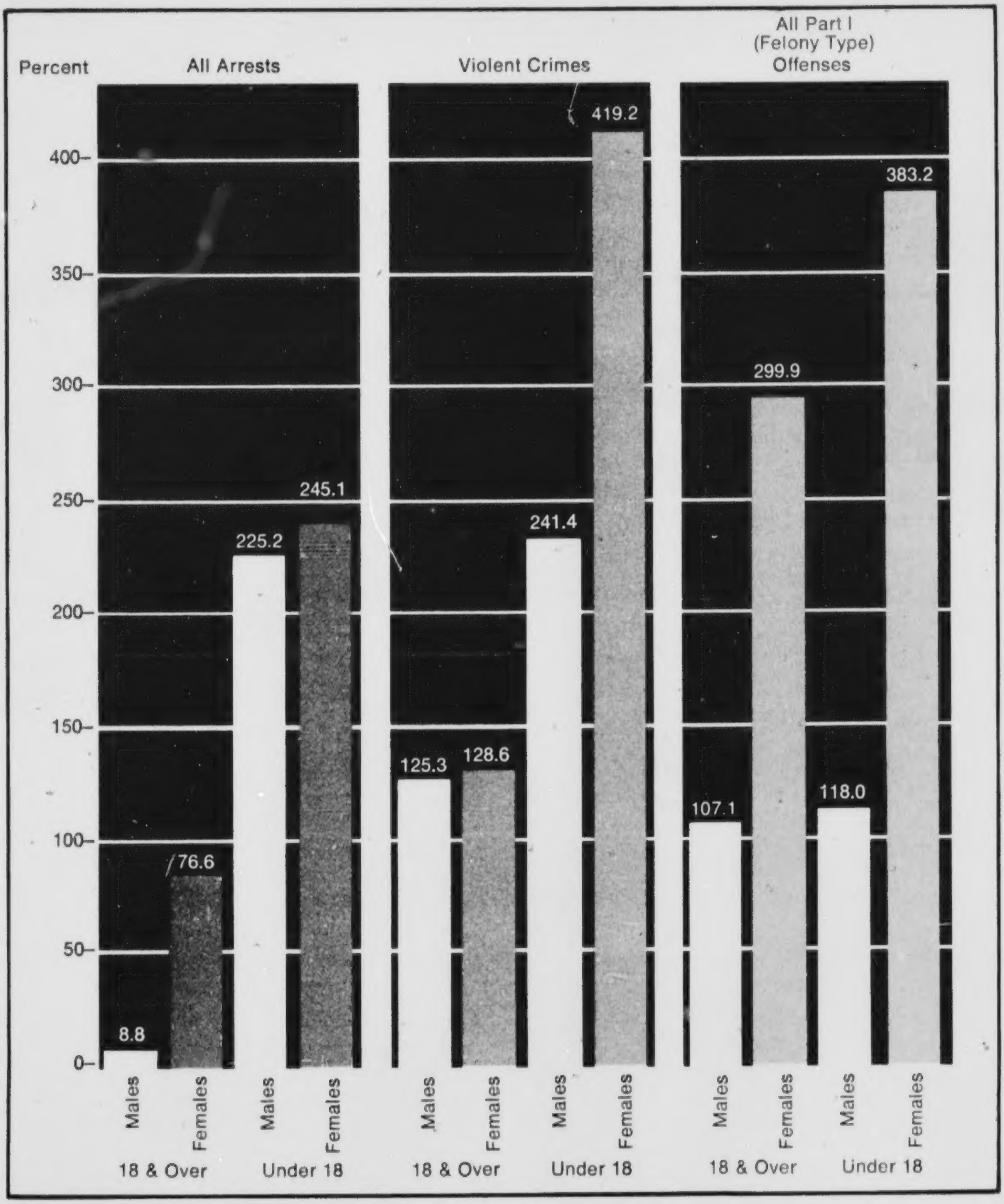
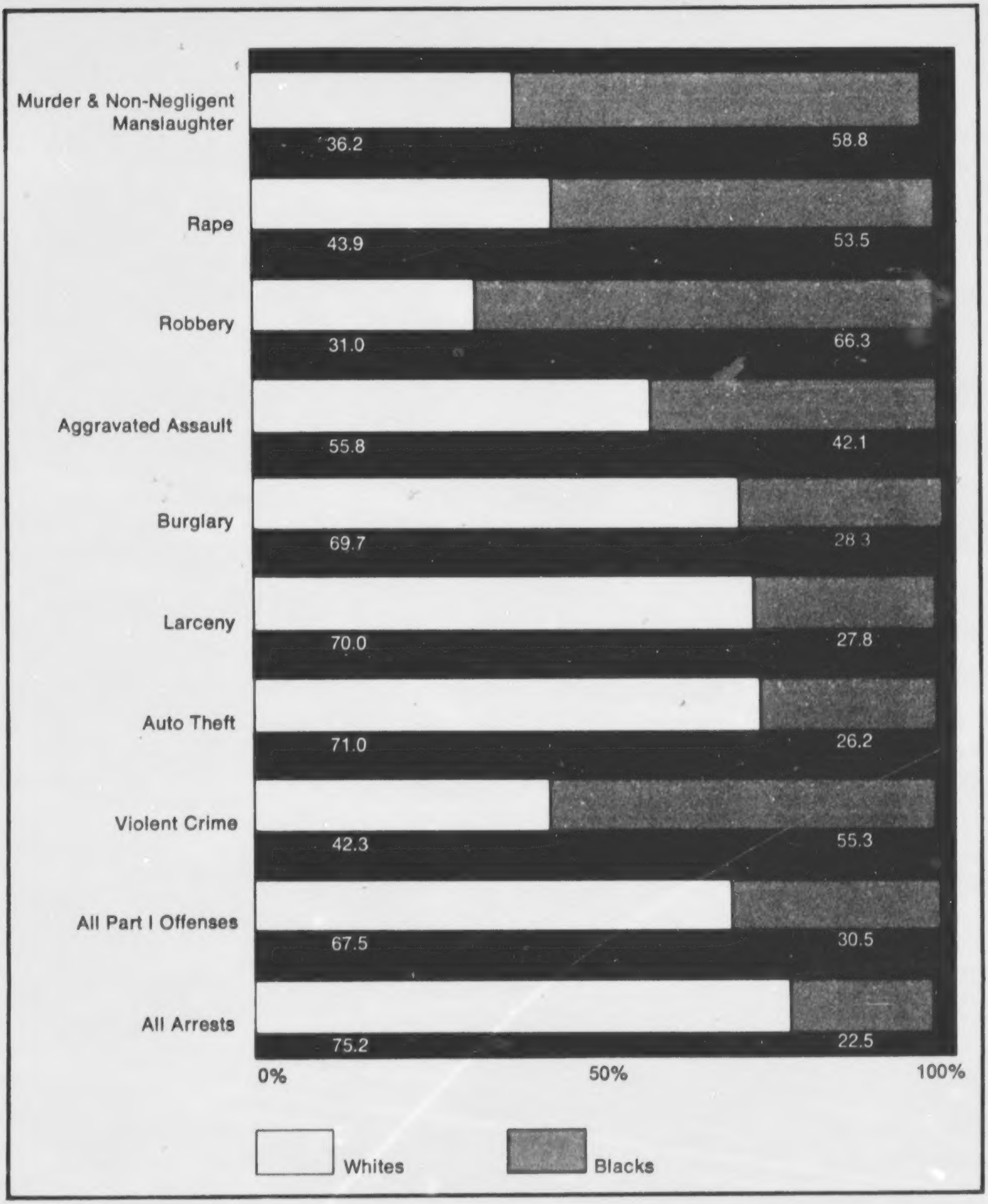


Figure 3. Arrests Under 18 (1974) by Race and Offense



the California juvenile justice system.[3] While Ohmart's findings generally are consistent with the national arrest data presented above, they provide greater detail; some key excerpts from the study are contained in Appendix 2. The study concluded that minority youth not only are overrepresented in the delinquent populations, but also are becoming an increasing portion of the correctional workload because of their heavy involvement in the most serious crimes.

Though needed data are not available nationally, the California experience appears to be one that is being repeated elsewhere in the Nation. It should be recognized that if present trends continue, an increasing percentage of juvenile justice system clients will be minorities. Any efforts, then, to project future juvenile or criminal justice workloads must take this factor into account.

SOCIAL AND ECONOMIC TRENDS AFFECTING CRIME RATES

Practically every citizen has a ready explanation for the frightening and relatively steady increase in juvenile and adult crime. Some blame a growing permissiveness in the nurture of the young with a concurrent decline in respect for constituted authority. Liberals tend to point to the omnipresence of poverty in a generally affluent society and to the country's failure to meet increasing and legitimate expectations of the poor and minorities. The general dissidence of youth, highlighted by the generation gap of the sixties, and its accompanying untraditional behavior modes and lifestyles sometimes are viewed as further evidence of the decline of conformity-producing social controls. Finally, it is suggested, the changing patterns of family relationships and the apparently increasing incidence of single-parent families encourages adolescent youngsters to turn to peer gangs for their behavior models, rather than to parent figures.

In 1973, the American Justice Institute (as part of its LEAA-funded Project STAR), in an attempt to find some better researched explanations for present and future trends in juvenile delinquency, commissioned a study by Dr. Perry Rosove.[4] Dr. Rosove identified 10 pervasive past and present social trends affecting the incidence of crime and delinquency and that have significant present and future import for the juvenile and criminal justice systems. Any contemplation of future alternatives should consider the following trends identified by Dr. Rosove and the influences of these forces.

1. Population growth and its effects on the number and makeup of the young age groups;
2. Postindustrialization, with its increasing demand for specialized knowledge workers in place of manual workers;
3. Urbanization, with its tendency to leave the Nation's cities to the poor, the young, and the black;
4. Secularization, with its decline in the influence of religion and traditional morality;
5. Democratization, with its gradual disappearance of distinctions between upper and lower classes;
6. Egalitarianism, with the gradual breaking down of inequalities among the races, sexes, and age groups;
7. Meritocracy, where advancement is based more on personal merit;
8. Increasing economic affluence, with growing disposable income for the middle and lower income families;
9. Professionalization, where greater numbers of people are employed in occupations requiring specialized knowledge and education; and
10. Bureaucratization, with its tendency toward larger and more complex organizations.

A further discussion of these trends is contained in Appendix 3.

Dr. Rosove points out that most of the trends tend to reinforce each other. Thus, for example, population growth by itself may suggest an increase in crime but, in conjunction with urbanization and secularization, the probability is more likely. It is, therefore, the reinforcing effects of multiple trends that are critical, rather than the effects of any single trend.

It should be recognized that futurists often disagree with one another in the trends they formulate. It is not proposed that the study commissioned by the American Justice Institute is the only view of the future, nor the most accurate prognostication of what lies ahead. Rather, the 10 social and economic trends identified by Dr. Rosove should serve as an example of one attempt to understand current events and forecast the probable future of juvenile justice in the United States. Clearly, society is changing and change is taking place at an accelerated pace. If the Nation is to prepare itself properly for the future, it must anticipate it.

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[3] Ohmart, Howard. "Reorganizing Youth Corrections in California," prepared for Long Term Planning Council of the California Department of the Youth Authority. Sacramento, Calif., April 1975.

[4] Project Star. *The Impact of Social Trends on Crime and Criminal Justice.* Cincinnati, Ohio: Anderson Publishing Co. and Santa Cruz, Calif.: Davis Publishing Co. 1976.

THE JUVENILE JUSTICE SYSTEM—ORIGIN AND DEVELOPMENT

The nationwide, diverse aggregation of courts, agencies, and people that constitute the juvenile justice system generally resulted from the efforts of zealous Illinois reformers at the turn of the century. Among their motivating principles were:

- Children, because of their minority status, should not be held as accountable as adult transgressors;
- The objective of juvenile justice is to help the youngster, to treat and rehabilitate rather than punish;
- Dispositions should be predicated on an analysis of the youth's special circumstances and needs; and
- The system should avoid the punitive, adversary, and formalized trappings of the adult criminal process with all its confusing rules of evidence and tightly controlled procedures.

The juvenile court notion spread rapidly across the country, and by World War I a reasonable facsimile of the Illinois model existed in almost every State. Shortly thereafter, the professionalization process noted by Dr. Rosgrove began to take hold, and by the end of the thirties the juvenile court was staffed largely by social workers, many of them trained professionals.

The constitutionality of various juvenile court statutes has been challenged at various times since the first juvenile court was established in Illinois in 1899. But it was during the 1960's that constitutional challenges to the juvenile court succeeded in changing significantly the juvenile justice system.

During the 1960's, the Nation's social and legal trends expressed a new concern for constitutional guarantees for minorities, criminal defendants, and the poor. During this period, it also became clear that many juvenile courts did not extend due process guarantees to juveniles. Since that time a series of Supreme Court decisions have mandated procedural safeguards at virtually every stage of the juvenile justice system.

The President's Crime Commission, which reported its findings in 1967,[5] also expressed its disenchantment with the experience of the juvenile court. The criticisms of the Commission, some of which are listed below, also express the views of juvenile justice professionals.

> The juvenile court has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of juvenile criminality, or in bringing justice to the child offender.

> Uncritical and unrealistic estimates of what is known can make expectation so much greater than achievement and serve to justify extensive official action, and to mask the fact that much of it may do more harm than good. Official action may help to fix and perpetuate delinquency in the child—the individual begins to think of himself as a delinquent and proceeds to organize his behaviors accordingly. The undesirable consequences of official actions are heightened in programs that rely on institutionalization of the child. The most informed and benign institutional treatment, even in well designed and staffed reformatories and training schools, thus may contain within it the seeds of its own frustration, and itself may often feed the very disorder it is designed to cure.

This kind of criticism of the juvenile justice system may well have taken its cue from the text of the now-famous 1966 *Kent* decision[6] of the Supreme Court, with its often quoted opinion that:

> There is evidence in fact, that there may be grounds for concern that the child receives the worse of two possible worlds: that he gets neither the protections accorded adults nor the solicitous care and regenerative treatment postulated for children.

In the following year, the Supreme Court handed down the landmark *Gault*[7] decision, which further underscored the need for change in the juvenile justice system. The *Gault* decision served to change the nature of the juvenile justice apparatus, albeit perhaps more in form than substance.

In the *Gault* case, the Supreme Court held that, whenever delinquency proceedings may result in a child's incarceration, the Constitution requires that the juvenile has the right to counsel, the right to be properly notified of the charges against him or her, the right to confront and cross-examine witnesses, and the privilege against self-incrimination. The *Gault* decision thus brought due process to the juvenile justice system. Subsequently, other courts have held that, on the basis of the *Gault* decision, police must observe the standards of interrogation required by the *Miranda* decision and that the rules of search and seizure also must apply to juveniles.

The *Gault* decision was extended in the *Winship* case[8] (1970), which held that guilt, in the case of a delinquency adjudication, because that adjudication might involve a deprivation of liberty, must be proven beyond a reasonable doubt. But the following year, in *McKeiver* v. *Pennsylvania*,[9] the court held that the Federal Constitution did not require that State juvenile courts provide a trial by jury in a delinquency proceeding. Finally, in 1975, in *Breed* v. *Jones*,[10] the court applied the double jeopardy clause of the fifth amendment to invalidate the adult conviction of a child earlier adjudicated delinquent in a juvenile court for the same offense.

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[5] President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

[6] *Kent* v. *United States*, 383 U.S. 541 (1966).

[7] *In re Gault*, 387 U.S. 1 (1967).

[8] *In re Winship*, 397 U.S. 358 (1970).

[9] *McKeiver* v. *Pennsylvania*, 403 U.S. 528 (1971).

[10] *Breed* v. *Jones*, 421 U.S. 519 (1975).

Thus, during the past 10 years, the Supreme Court and State appellate courts have ruled regularly on juvenile court proceedings, interpreting laws and procedures, construing the application of State and Federal constitutional provisions, and determining what constitutional distinctions should be drawn between the juvenile and adult criminal process.

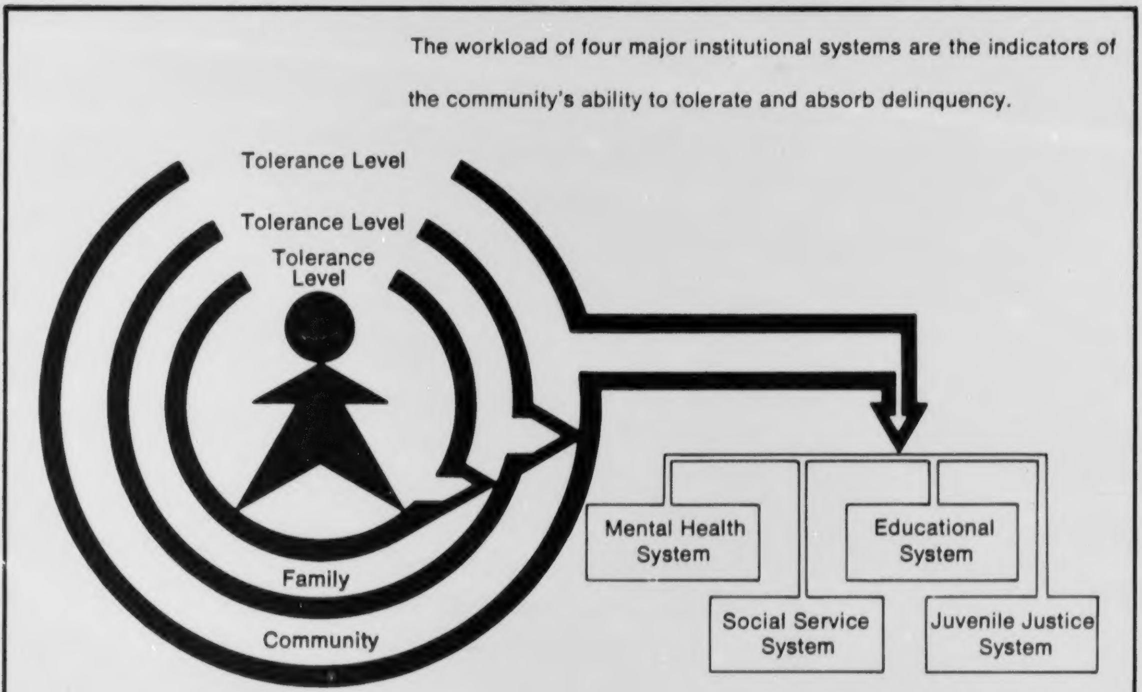
THE JUVENILE JUSTICE SYSTEM—CURRENT OVERVIEW

The juvenile justice system typically is described in terms of its component parts, e.g., police, courts, corrections. Though convenient, this conception of the juvenile justice system greatly oversimplifies a complex network of unorganized, unsystematic operations of many public and private agencies all operating within the context of one or more communities.

Nevertheless, an official juvenile justice system does exist in each community. Usually, it is one of four alternative systems to handle delinquency, as shown in Figure 4.

The Individual-Family-Community tolerance levels represent differing abilities to absorb problem behavior of troubled and troublesome juveniles. These abilities take the form of informal arrangements to deal with the problem without recourse to the major health, education, social services, or juvenile justice agencies. The workload of the juvenile justice system is directly related to the ability of the family

Figure 4. When Individual, Family & Community Controls Fail



The workload of four major institutional systems are the indicators of the community's ability to tolerate and absorb delinquency.

and the community to resolve and contain these problems.

Juveniles who break through the community tolerance level are routed to one of the four major institutional systems. Which of the four they are sent to will depend on the unique characteristics and policies of each community; there are great variations throughout the country.

A flow chart of a typical juvenile justice system is shown in Figure 5. Note that the flow diagram is organized in the same way as this volume is constructed; that is, prevention is presented first, followed by police, judicial, and, finally, corrections agencies.

The juvenile justice process begins with an investigation by a police officer. The officer initiates an investigation either because he or she observes a law violation personally or because it is brought to the officer's attention. Once the officer decides to intercede in the life of a juvenile, he or she may take the juvenile into custody or may exercise one of several forms of discretionary release.

Cases referred to intake are screened for further referral to the family court prosecutor. Some juveniles may be released on the spot. Others may be referred to a community resource agency. Those who will be required to appear in court are either released in the custody of parents or detained pending court appearance.

Once a petition is filed, the court trial process is activated. Certain very serious cases involving 16- and 17-year-olds may be waived or transferred to the adult courts for adjudication. But most cases are adjudicated in the family court, and, following review of a dispositional study, the court selects an appropriate disposition leading to a corrections program.

When presented as a flow chart, the juvenile justice system appears as a series of boxes or gates through which children pass. These are the points at which officials make decisions about children who have entered the juvenile justice system. In each community, even where the flow charts are similar, children flow through the system differently. Thus, one of the first steps any community must take to assess its juvenile justice system is to diagram the system, insert the numbers, and compare the performance of its system with other, similar communities. Where this is done, those persons conducting the assessment will have solid data about how their juvenile justice system is performing.

Juvenile Probation—The Principal Correctional Instrumentality

It is literally impossible to provide accurate numbers of those juveniles moving in and through the juvenile justice process in the United States, and of those managing juveniles as they move to the court, through the court, and on to probation status. It is known, however, that the vast majority of youngsters who are arrested never reach the point of court adjudication. The police agencies have rather consistently disposed of roughly half of the arrestees without referral to probation or the court.

It is estimated that in 1974 there were a half million youngsters on formal or informal probation. The number is almost certainly greater now. It also is estimated that some 25,000 probation officers managed the 1974 workload, and, again, it is predicted that the number has grown since then. This estimate does not include those who were employed in detention or residential operations.

In most jurisdictions, the intake or probation officer performs the critical sorting function, determining who is to be the subject of court action, who is to be detained, and proposing to the court the nature of the judicial disposition. That officer collects and submits the offender's social history and other information upon which the adjudication decision is based. Presumably, the officer identifies and uses existing community resources and/or develops others that are needed. The officer also performs the supervision function for those who are placed on probation status, and reports back to the court the incidence of further law violations or transgressions of probation conditions.

Organizationally and administratively, probation is primarily a local function. This generally implies that it should be structured along county lines or, occasionally, along court district lines; however, in adult probation, only nine States have entirely local adult probation departments. Similarly, State agencies are predominant in the juvenile justice system after-care function, with only four States identified as having local services; two have a shared State-local responsibility.

In spite of the predominantly local nature of juvenile probation, State agencies increasingly are moving into various support and oversight roles. A number of States provide major subsidy programs, while others set standards and provide training and statistical and research services.

Juveniles in Jails and Detention Centers

The National Jail Census, 1970,[11] reported that 7,800 children were in jails on one day in March of

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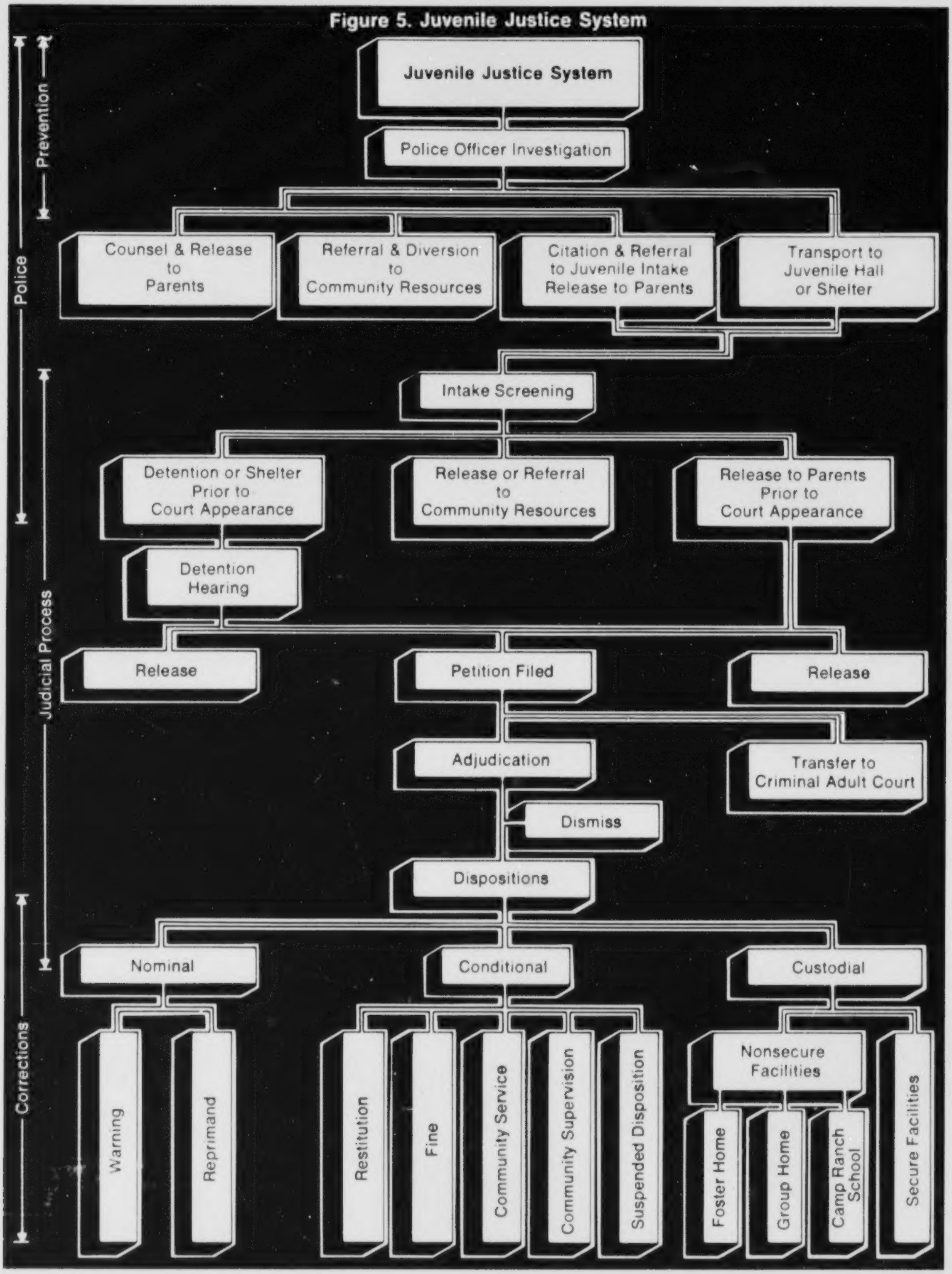
[11] U.S. Department of Justice. *National Jail Census, 1970: A Report on the Nation's Local Jails and Types of Inmates.* Washington, D.C.: National Criminal Justice Information and Statistics Service, 1971.

Figure 5. Juvenile Justice System


Prevention
Police
Judicial Process
Corrections
Juvenile Justice System
Police Officer Investigation
Counsel & Release to Parents
Referral & Diversion to Community Resources
Citation & Referral to Juvenile Intake Release to Parents
Transport to Juvenile Hall or Shelter
Intake Screening
Detention or Shelter Prior to Court Appearance
Release or Referral to Community Resources
Release to Parents Prior to Court Appearance
Detention Hearing
Release
Petition Filed
Release
Adjudication
Transfer to Criminal Adult Court
Dismiss
Dispositions
Nominal
Conditional
Custodial
Warning
Reprimand
Restitution
Fine
Community Service
Community Supervision
Suspended Disposition
Nonsecure Facilities
Foster Home
Group Home
Camp Ranch School
Secure Facilities

that year. However, the census examined only those facilities that detain subjects for 48 hours or more. Many police lockups, drunk tanks, or small municipal jails were not included. The 1974 LEAA report, "Children in Custody,"[12] counted 11,748 children in 303 juvenile detention units on one day, with an average daily population estimated at 12,186.

The LEAA census indicated that some 75 percent of the girls and 25 percent of the boys were held for various status offenses. Other analyses indicate that as many as 90 percent have not been adjudicated.

Comparative analyses of rates (per 100,000) of combined jail and detention home lockups revealed gross differences among the States, with New York and California having the highest combined rates. (See Table 1.) Many States had relatively high rates in the use of both types of facilities. Urban States had both high and low rates, as did the rural States. Differences in statutes also do not offer much explanation for the widely varied patterns.

Requirements for predetention hearings are equally disparate according to a survey of the State laws. Nine States require a hearing within 48 hours; five within 96 hours; 11 within one week; five call for a court order but prescribe no time limit. Fifteen states provide no time requirement.

Sarri[13] characterizes the many malpractices of juvenile lockup operations as "the dark side of juvenile justice." And surely the deepest part of that darkness is found in the use of those frequently ancient, frequently unclean bastilles, which are often without adequate facilities for separating the several kinds of persons held, and, with a few significant exceptions, are places that are prone to demean, regiment, and generally traumatize those youngsters incarcerated there.

The Sarri report offers 23 recommendations pertaining to needed legislation, policy changes, and administrative reform. While they are too lengthy to summarize here, they are commended to the planner or policymaker who might wish to throw some light on the dark side of the juvenile justice system.[14]

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[12] Law Enforcement Assistance Administration. *Children in Custody*. Washington, D.C.: Government Printing Office, 1975. See also: Law Enforcement Assistance Administration. *Children in Custody: A Report on the Juvenile Detention and Correctional Facility Census of 1971*. Washington, D.C.: Government Printing Office, 1973.

[13] Sarri, Rosemary C. *Under Lock and Key*. Ann Arbor, Mich.: University of Michigan; National Assessment of Juvenile Corrections, 1974.

[14] *Ibid.*

Table 1. Combined Jail-Detention Home Rates 1971 for 100,000 Youth—in Rank Order

State	Rate	State	Rate
North Dakota	2.28	New Hampshire	22.74
Connecticut	4.56	South Dakota	22.99
South Carolina	7.23	Alabama	23.28
North Carolina	8.69	Utah	23.71
Hawaii	9.80	Illinois	24.16
Iowa	9.83	Pennsylvania	24.91
Oklahoma	10.01	Wyoming	27.17
Alaska	10.22	Montana	27.55
Vermont	10.25	Ohio	28.42
Arkansas	12.07	Delaware	29.53
Nebraska	12.39	Washington	29.81
Minnesota	12.66	New Mexico	31.28
Maine	13.51	Virginia	31.92
Wisconsin	14.23	New Jersey	33.01
Texas	15.33	Colorado	33.16
Mississippi	16.20	Indiana	34.79
Maryland	16.58	Kansas	35.20
Rhode Island	17.01	Arizona	35.67
Massachusetts	17.09	Michigan	38.90
Kentucky	18.62	Oregon	41.0
West Virginia	19.90	Georgia	50.36
Louisiana	19.92	Florida	55.66
Idaho	21.10	Nevada	69.84
Tennessee	21.28	California	79.09
Missouri	22.08	New York	114.62

Table 2. Population of State-Run Institutions for Juveniles

	1969	1970	1971	1973	1974
State Institutions	40,890	39,420	33,581	24,222	25,424
Camps & Ranches	2,557	2,782	3,220	2,502	2,577
Total	43,447	42,202	36,801	26,724	28,001

Source: Juvenile Corrections in the States, Vinter et al., 11/75.[15]

The Correctional Institutions

Historically, America might be said to be an institution-oriented society. Correctional institutions proliferated in the post-war years although they probably did not keep pace with the population growth or increased crime rates. But in the mid-1960's, a vigorous attack by the President's Crime Commission and its off-spring, LEAA, generated or at least accelerated a powerful anti-institution trend in corrections. President's Crime Commission prognosticators had (in 1965) taken a look at the increased delinquency rates per 100,000 youngsters, multiplied that by the marked growth in the adolescent population, and predicted that the 43,636 State training school population would increase severalfold by 1975. This provided the critics of correctional institutions with the persuasive argument of economics. Considering that crime, particularly juvenile crime, continued to increase, a rather remarkable decline in correctional institution population transpired at both adult and juvenile levels. Table 2 depicts that trend for juvenile institutions. It is worth noting that the population of State-run institutions for juveniles increased from 26,724 to 28,001, or about five percent, from 1973 to 1974. Thus, the trend may be reversing itself.

Most of the bulge in the population curve that was occasioned by the post-war baby boom has by now fairly well passed through the juvenile court's 12-18 age group. Elementary school populations have been declining for several years, while high school populations reached their peak one to two years ago and are now in a very slight decline. The adolescents who occasioned the bulge in the population curve during the last decade are now moving or have moved into legal adulthood. Their depredations are being reflected in the increased workloads of the criminal rather than juvenile courts, and hence are reflected in the prison population explosion; an all-time high of 250,000 was reached early this year. Figure 6 is taken from an analysis of this rather startling change in the incidence of imprisonment published in a recent issue of *Corrections* magazine.[16]

The relative national decline in the number of juveniles in institutions is, in part, misleading. This decline is not simply a reflection of the shift in large numbers of juveniles into adult status. A substantial portion of the population drop was occasioned by major reforms in several of the larger States that substituted alternative methods of treatment for conventional correctional institutions.

The foregoing comment is not meant to discount the significance of other developments in many of the small to medium-sized States. Juvenile law reform has had the effect of eliminating most of the dependent and neglect cases that formerly populated the institutions in large numbers. PINS and CHINS (persons or children in need of supervision and known typically as the status offenders) are currently the subjects of debate in many States as to the propriety of their commitment to State institutions.

It is to be hoped that the development and implementation of a family court, as advocated in this report, will assist in a more rational sorting out of this large, diverse group of troubled and troublesome youngsters. It is further hoped that such a sorting mechanism will reserve the State correctional institutions for those who have committed serious or repeated violations of the criminal codes.

THEMES

A content analysis of the minutes of the meetings of the Juvenile Justice and Delinquency Prevention Task Force showed that the members consistently returned to 12 major themes in their discussions. Discussion of these themes will be central to any similar

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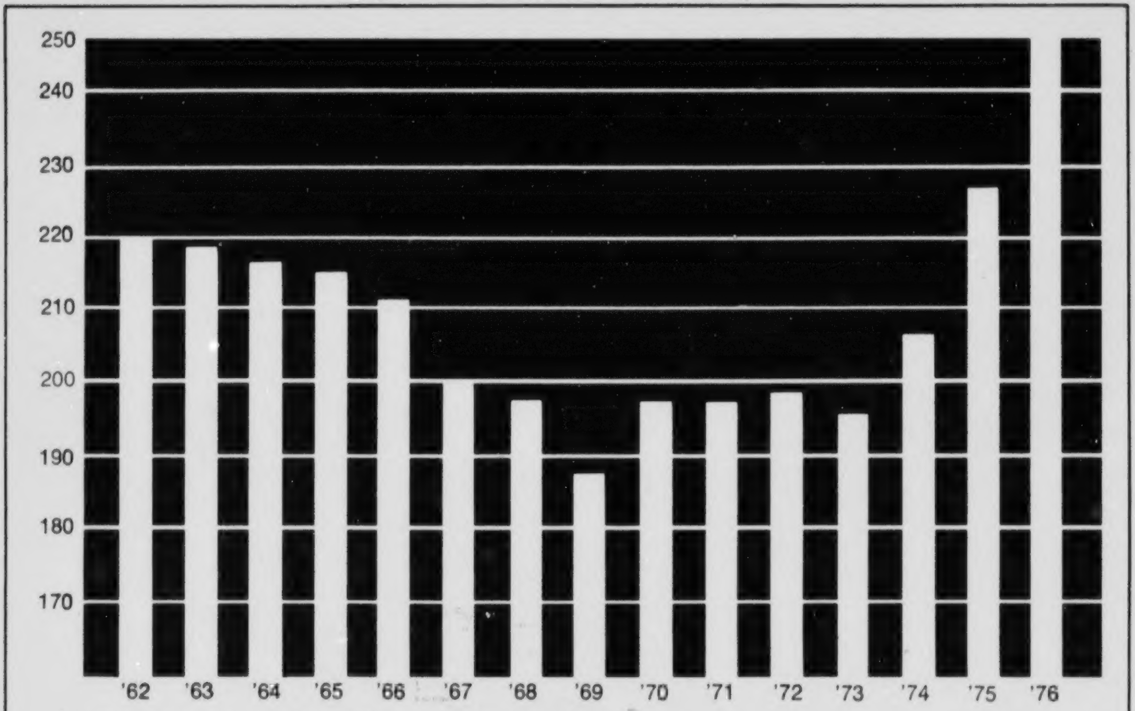
[15] Vinter, Downs and Hal, *Juvenile Corrections in the States Residential Programs and Deinstitutionalization.* Ann Arbor, Mich.: University of Michigan, 1976.

[16] Gettinger, Steve. "U.S. Prison Population Hits All-Time High," *Corrections Magazine* Vol. II, March 1976.

Figure 6. Total Population of U.S. State and Federal Prisons—1962-1976
Figures are in thousands—as of January 1.



LEAA figures for '69, '70, '71 do not include certain states.
Figures from 1962-1974 from LEAA: 1975–1976 figures from *Corrections Magazine* survey.

standards and goals process that may be conducted at the State or local level.

1. **Family Stability.** It is strongly urged that a major concerted effort be made to strengthen the family environments in which children develop if reduction in delinquency is to be achieved. To attempt to modify youthful behavior without recognizing the problems in what is for most youths the most important environment in which they will have to function seems unsound.

Standards throughout this volume are designed to strengthen the role that the family can play in developing socially acceptable behavior among the Nation's youth. The collective impact of these standards is intended to produce within society an environment that is most conducive to the strengthening of family relationships and the maintenance of the family unit. The design is that families should be provided with sufficient resources to allow them to deal with their own problems.

2. **Families With Service Needs.** A number of commentators and groups charged with setting standards have advocated abolishing juvenile court jurisdiction over noncriminal behavior. On the other hand, supporters of the traditional jurisdiction system have argued that the courts should be given wide discretion for jurisdiction to intervene when a child is exhibiting undesirable behavior and is in need of treatment. Neither of these approaches is considered acceptable.

It is urged that the use of vague criteria to gain jurisdiction over noncriminal juvenile misbehavior be discontinued. Only conduct that is clearly defined and clearly harmful to the child and family should be subject to family court jurisdiction under the Families With Service Needs concept. Five forms of behavior meet this criteria: truancy, running away, disregard for or misuse of parental authority, use of intoxicating beverages, and "delinquent acts" by children under 10 years of age.

3. **Endangered Children.** It is recognized that the declared aim of present policies of coercive State intervention on behalf of endangered children is to provide such children with permanent, stable family homes. And although this objective is supported, it

is believed that current practices of extensive State intrusion in family affairs strongly contradicts the long-held societal values of family autonomy and privacy.

There is no question that many children have needs that are not being met. For the benefit of these children, extensive services should be made available to all families on a voluntary basis. The history of the failure of previous State efforts to improve children's lives, however, reveals that coercive intervention programs must be premised on a realistic awareness of the limitations on the State's ability to improve a child's living environment. By limiting coercive intervention to cases where specific harms to a child have been identified, the State can insure that intervention will take place only when it will be likely to improve the child's situation.

4. **Delinquency Prevention.** It is believed that no issue is of greater import in the field of juvenile justice than the prevention of delinquency. It seems clear that efforts aimed at the early delivery of services to young people who may be headed for careers of crime have more promise as a method for reducing crime than attempts to control delinquency solely by strengthening various components of what is normally considered the juvenile justice system. It is likely that, even through increased efficiency, the normal processes of the juvenile justice system cannot have a major impact upon delinquency.

5. **Diversion.** Although a substantial part of this report deals with standardized procedures for processing youths through the juvenile justice system, it remains an underlying principle that juveniles should be subject to no more contact with the system than necessary. Many of the juveniles who are brought to the attention of justice system officials are clearly in need of rehabilitation and/or some type of supervision. But, for a substantial portion of this group, the full coercive power of the court is unnecessary to deal with a juvenile's problem.

There are at least three principles that should guide the operation of all diversionary practices within the juvenile justice system. First, diversion should not be offered unless there is some effective service or treatment in which the juvenile may participate. Second, the expansion of diversionary programs should not increase the total number of juveniles that are under some type of supervision of the juvenile justice system. Finally, candidates for diversion should be guaranteed the same due process rights as juveniles who are processed formally within the juvenile justice system.

6. **Least Coercive Disposition.** It is urged that juveniles be institutionalized only as a last resort. There seems to be little doubt that the most coercive dispositional alternatives are more expensive and time-consuming. The scarce resources that these dispositional methods expend might be applied more effectively to other operations of the juvenile justice system. Moreover, high levels of coercion may breed contempt and hostility, which fosters antilegal attitudes among the young. The juvenile justice system should implement practices and programs that are guided by the principle that the best disposition for an individual is one that uses the least amount of coercion that is appropriate.

7. **Due Process.** Evidence demonstrating the slow pace of implementation of due process reforms within the juvenile justice system is cause for concern. The standards in this report reflect the view that due process procedures should be extended to juveniles.

Although the Supreme Court has begun to define the constitutional limits for due process within the juvenile justice system, due process for youths in many areas will not be achieved until State juvenile codes are revised and States proscribe standards that are a specific mandate to juvenile justice agencies.

8. **The Violent and/or Repeated Delinquent.** Over the last decade, there has been a marked increase in rates of violent crimes by juveniles. Evidence also indicates that a large number of juveniles appear to be chronic law violators. There seems to be every indication that a small segment of the juvenile population is responsible for a highly disproportionate number of the delinquent acts committed by juveniles. This is especially true for delinquent acts of a serious nature. The juvenile justice system is, at present, not adequately equipped to deal with the growing tide of youthful violence or with the violent or repeated offender. It is urged that public attention throughout the Nation be directed to these problems.

9. **Minority Representation.** It is apparent that, while minorities are grossly overrepresented as victims of delinquent acts and as clients of the juvenile justice system, they are grossly underrepresented as policymakers and operators of the system. This inconsistency tends to promote a situation where the people who design and run the system may be unaware of or insensitive to the culture, problems, and feelings of many of the people who use it. Minorities should be given the opportunity to become more involved at all decisionmaking levels of the juvenile justice process.

10. **Coordination Among Agencies.** It has become clear that the institutions that traditionally have been thought to make up the juvenile justice system —the police, courts, and corrections—often work at

cross purposes and that it is difficult to view their combined operations as constituting a true system. One result of this lack of cooperation and communication has been a tremendous waste of resources due to duplication of services. Probably more tragic is the fact that the problems of troubled young people are not being resolved. It is believed that juvenile justice will continue to operate in a fragmented fashion until some consistent policies are established.

11. **Improved Research.** The juvenile justice system continues to base its operations on scarce information. Research results available in most areas of operations are so limited that practitioners are dealing virtually with the unknown.

The juvenile justice system cannot continue operations that are based on supposition, intuition, and commitment to established agency policy. There is a need for research that is geared toward problem solving.

12. **Resource Allocation.** Although it is recognized that many States and local communities simply do not possess sufficient resources to elevate their juvenile justice systems to an ideal level of operation, States must begin to provide solutions to the sorely neglected problems of the juvenile justice system. Existing resources must be reallocated to reflect more fully the seriousness of the problems of youths in this society.

GOALS

Without goals, standards are meaningless. In constructing the standards in this report, careful considered attempts were made to redefine and clarify juvenile justice and delinquency prevention goals. Five major goals were identified and each standard is directed toward achieving one or more of these goals.

1. **Reduce Juvenile Violence.** Like the large society of which they are a part, juveniles are becoming more violent. Violent crime, expressed as a proportion of all delinquent acts committed by juveniles, has increased alarmingly. Homicide is now a major source of death for teenagers in inner-city areas.

So far the juvenile justice system has been incapable of coping with youthful violence. Predictive techniques have been of doubtful value in identifying potential delinquents and simply are of no value in identifying violent delinquents. It is essential that those whose behavior poses a threat to the lives and safety of others be isolated and supervised.

2. **Reduce the Number of Juveniles Who Repeatedly Commit Delinquent Acts.** Studies of juvenile delinquency have shown consistently that a relatively small number of juveniles account for a disproportionately large number of delinquent acts. The Birth Cohort Study of Wolfgang, Figlio, and Sellin (Philadelphia, 1972)[17] showed that about 6 percent of children born in the same year committed over 50 percent of the offenses attributed to all children born that year. The majority of children arrested for delinquent acts have had some previous contact with the law. It is a sad commentary on the effectiveness of the juvenile justice system that it has had such dismal success in rehabilitating repetitive delinquents. Not all delinquents can be helped, but a substantial number can be dissuaded from criminal careers if sufficient resources are made available. The juvenile justice system is just beginning to learn how to identify those who can be helped and those who cannot.

It is believed that high priority must be given to the problem of dealing with the repetitive delinquent. The public will have to make hard decisions in terms of cost and risk; but if this type of delinquent is to be dealt with effectively, these decisions must be made.

3. **Provide Due Process for All Children.** Recent U.S. Supreme Court decisions have made it clear that youths charged with delinquent acts are entitled to most due process rights accorded adults. Unfortunately, some jurisdictions are using devious means to deny due process in spirit and practice, sometimes even while meeting the letter of the law. Color and class still appear to play an important part in deciding whether or not a youth will be taken into custody. Insensitivity to cultural differences continues to enter into dispositional decisions. The poor and the disadvantaged continue to be denied adequate defense counsel, which includes sufficient time and funds to prepare a case.

Every effort must be made to provide youth with just, equal, and lawful treatment. To insure this end, the operations of the justice system should be monitored constantly.

4. **Integrate and Coordinate the Present Fragmented Juvenile Justice and Delinquency Prevention System.** The failure of the juvenile justice system to operate in a coordinated and efficient fashion limits severely its ability to help juveniles. Although it is recognized that knowledge of how to modify human behavior is pitifully small, it remains true that we do far less than we know how to do. In many jurisdictions, there is open distrust of police by probation and vice versa. Many educators feel the juvenile court has turned its back on the problems posed by truancy and classroom misbehavior. Welfare officials are

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[17] Wolfgang, et al. *Delinquency in a Birth Cohort.* Chicago, Ill.: University of Chicago Press, 1972.

openly contemptuous of the harsh ways in which status offenders are handled. Private agency executives frequently cannot understand why the justice system often sets up services that duplicate others provided by private agencies and that could be contracted for. There is fierce competition for foster homes by both welfare and probation officials.

It is believed that a more efficient mode of operation is necessary and that this can be achieved by a substantial reorganization, the application of sufficient resources, and the use of specially qualified personnel.

5. **Provide Protection for Children Who Need It.** The juvenile court today serves a wide variety of children, from the endangered child to the recalcitrant and obstreperous one and finally to the seriously delinquent one. The distinction among these three groups of children is blurred and sometimes even court officials are not certain to which category a child should be assigned. An 8-year-old orphan who runs away from his or her foster parents and steals a bar of candy could conceivably, and legally, be placed in any or all of the three categories.

It is believed that the entire justice system must work not only to offer protection for children but also to see that they get it. Reorientation of both legislative and agency policy is needed in order to establish the juvenile justice system as the protective institution it was intended to be.

PRIORITIES

General Priorities for State and Local Action

The standards in this report generally fall into the following eight areas of priority that have been identified for State and local action.

1. **Improve Programs for Preventing Juvenile Delinquency.** States should place a high priority on efforts to establish programs to prevent juvenile delinquency. Although there is no key solution to prevention, and the knowledge base of what works and what doesn't is rather limited, prevention remains a viable programmatic alternative.

2. **Design Policies and Programs to Increase Family Stability.** It is believed that the family is of great importance in the healthy development of children. Consequently, every piece of legislation and every operation of governmental agencies should consider the impact on family stability. Consistent policies for strengthening the family unit must be established and care must be taken to insure that every level of government is involved in coordinated efforts to produce cohesive families.

3. **Improve Planning and Coordination Among Institutions Responsible for Delinquency Prevention and Juvenile Justice.** The juvenile justice system can no longer continue in the fragmented manner that has characterized its operations in the past. Each agency must recognize its interrelationship with all other agencies within the system. System-wide agreement must be reached on the purpose and goals of juvenile justice. Once goals are identified, coordinated planning must be established as a continuous process. Mechanisms must be created to insure that the community, as well as juvenile justice officials, is involved in defining the objectives and strategy to be used in accomplishing the stated goals.

4. **Implementation of Better Research and Data Bases on Delinquency and the Juvenile Justice System.** Our national knowledge base about the problems of delinquency and juvenile justice is grossly inadequate. There is need for Federal and State commitment to sponsor research that can be used to improve the quality of juvenile justice and prevention services. The Federal Government must sponsor basic research and provide incentives for State and local governments to upgrade the quality and quantity of research that is being conducted. There is need for a review process, such as the system used by the National Science Foundation, which uses panels of researchers and practitioners to review and guide the expenditure of research funds. Regional and State programs to create university-based programs of research and training designed to foster better research methods and wider dissemination of research results also should be established.

5. **Allocation of Sufficient Resources for Effective Reforms.** It is believed that reduction of delinquency rates and improvement within the juvenile justice system cannot be achieved until each State sets as a high priority the allocation of sufficient resources to make programmatic efforts in these areas effective. A first step is a firm commitment by appropriate agencies and individuals within the State to a continued high level of funding for youth programs. In addition, agencies that administer youth programs must increase their lobbying and advocacy efforts for youth activities to insure a steady flow of program funding. States also must explore innovative techniques for the creation of new resources as a step toward discontinuing their overreliance on Federal funding. State, local, and private funding possibilities also must be developed to the fullest extent. Existing resources for the justice system and human service programs should be allocated on a parity basis that

more accurately reflects the fact that juveniles make up nearly 50 percent of the workload.

6. **Using the Least Coercive Intervention.** States should adopt legislation similar to the Federal Juvenile Justice and Delinquency Prevention Act of 1974, which sets forth the basic policy that the least coercive means should be used to accomplish legal objectives. All juvenile justice agencies should implement this principle in their rules of administrative operation. Programs to train all personnel in the theory and practice of using the least coercive means to accomplish the goals of the juvenile justice system should be established.

7. **Implementation of Effective Rehabilitation and Correctional Programs.** The development of effective correctional programs for youth should be a major priority for Federal and State action. Correctional programs should focus more on insuring that the objectives of the family court disposition are realized. Improved corrections can reduce the penetration of juveniles into the system and reduce recidivism. Resources should be made available to encourage rehabilitation of delinquents in the community whenever feasible. Correctional facilities must expand their opportunities for youths to engage in normal activities, such as school or work, outside the confines of the institution. States should provide meaningful after-care programs for youngsters who have been sent to correctional facilities. State and Federal action should be directed toward developing new approaches to youth corrections, and new methods should be tested by thorough evaluations. Specialized service and rehabilitation programs should encourage voluntary participation of youths and widespread citizen involvement.

Specific Priorities for State and Local Action

It is believed that there are five specific, high-priority areas of these standards that States and localities should begin to act on immediately.

1. **Establish Family Courts.**[18] Despite the fact that all relevant model acts and national groups charged with setting standards have recommended a family court structure, few States have adopted such a system. The objective of the family court structure is to end the judicial fragmentation of family-related legal matters.

Adoption of the family court structure would entail the broadening of the jurisdiction of one court to include all family-related legal problems. This reorganization would provide for an integrated family court that would minimize duplication of efforts and provide for comprehensive treatment of family problems. The family court structure better enables the court to view juvenile behavior as part of a much broader framework and focus on the family as a whole. It recognizes the family as the basic social unit within society.

Such a structure is crucial to the successful implementation of many of the standards in this report. It is, therefore, recommended that each State or appropriate local jurisdiction accept as a priority the establishment of family courts.

2. **Formulate a Precise Definition of Delinquency Jurisdiction.** States should define specifically the behaviors that are to be called delinquent acts. Delinquency statutes in every State permit juvenile or family court intervention in cases where a youth is accused of violating a criminal statute. In addition, however, laws in a number of States make it possible for a youngster to be adjudicated as delinquent if the youth has committed one of the various status offenses. The behavioral categories described in status provisions generally are broad in nature and often ambiguous. The behavior included in these provisions is always either unique to juveniles or that which would be overlooked if committed by adults. Moreover, the behavior that violates most status offense regulations is behavior that nearly all youths engage in at some time. Thus, these laws expose nearly all youths to the risk of being adjudicated as delinquents and thereby of becoming subject to the most coercive powers of the court.

The injustice of allowing criminal sanction for behavior violating nonspecific codes of conduct should be rectified by limiting delinquency jurisdiction to only those acts that would be violations of Federal or State criminal law or local ordinance if committed by adults.

In addition, a great deal of arbitrariness and abuse of discretion can be eliminated by establishing definite age limits for the delinquency jurisdiction of the family court. The court should not exercise jurisdiction over juveniles who are too immature to truly understand that their behavior is criminal and should not treat as adults youths who are not likely to have matured to the level of responsibility that society expects from adults. It is recommended that 10 years of age be established as the lower limit and 18 years of age as the upper limit for delinquency jurisdiction.

3. **Implement the Concept of Families With Service Needs.** The Families With Service Needs concept,

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[18] All future references to the "family court" will refer to the division of the court of highest jurisdiction that has responsibility for all matters affecting families and their members.

as defined in this report, is the basis for a realistic and well-planned judicial mechanism for family or juvenile court intervention for specific behaviors. The behaviors are: running away, truancy, disregard for or misuse of parental authority, use of intoxicating beverages, and "delinquent acts" by children under the age of 10. The concept provides for the family court to exercise jurisdiction over the juvenile, the family, and any public institution or agency with a legal responsibility or discretionary ability to provide needed services to the child and/or family.

The jurisdictional basis of this concept is much more extensive than that of most current juvenile or family court structures. To adopt the Families With Service Needs approach, therefore, most States would have to develop a plan for implementing the standards in this report and the concepts they embody. Because each State's present statutory scheme and developed case law is different, the needs of each State in developing this plan will be different. Some specific recommendations, however, may be made to help States implement this conceptual scheme. These recommendations have been included in Appendix 4 of this report. Although the recommendations may serve as guidelines, it is urged that each State develop its own most effective court procedures for establishing the kind of jurisdiction that is envisioned by the Families With Service Needs concept.

4. **Adopt the Task Force Recommended Standards on the Endangered Child.** A number of standards are proposed that delineate guidelines for State intervention in protecting endangered (neglected and/or abused) children. These standards are premised on the recognition that existing policies too often have destroyed families rather than turned them into viable units. Moreover, coercive intervention practices frequently have resulted in the placing of a child in a more detrimental situation than would have been the case without intervention. Continuity in family relationships is extremely important for children. The removal of a child from the family setting may cause serious psychological damage. This damage can be more serious than the harm the intervention is intended to prevent.

The standards are designed to minimize the bases for State intervention, and proceed from the philosophy that parents should be given broad freedom with regard to child rearing. It is doubtful that sufficient resources are available to make intervention into family affairs effective in most cases. Also, present coercive intervention policies are based on an overestimation of the existing knowledge on child development and the State's ability to undertake the functions of a proper parent. Moreover, these policies are often insensitive to cultural diversities in the raising of children.

The standards, therefore, are designed to limit State intervention to cases in which specifically defined harms to the child can be identified. It is believed that implementation of these standards by the States will improve the well-being of many children who are now handled through the almost haphazard application of current abuse and neglect laws.

5. **Implementation of Family Counseling and Family Crisis Intervention Programs.** The previous four recommendations for specific State priorities address legislative actions that States may take. Three of the four are enabling in nature. Implementation of these recommendations is a prerequisite to the adoption of the comprehensive structure recommended for the juvenile justice system. The urgent need to deal with issues of family stability and the high level of violence in this society dictates that one recommendation for a specific priority be of a programmatic nature. The recommendation is that States adopt as a priority the establishment of effective and readily available family counseling and family crisis intervention programs.

The standards in this report are premised on the beliefs that families should be provided with the resources that will enable them to cope with their own problems and that outside intervention into family affairs should be kept to a minimum. It is inevitable, however, that families will experience difficulties that are beyond their abilities to solve. The high proportion of homicides and serious assaults that occur between family members attest to the volatility that can occur when family problems develop into breakdowns in family relationships. Even when family conflict does not manifest itself directly in intrafamily assaults, the intense pressures produced by family problems are likely to foment violent behavior against friends, neighbors, and even strangers.

When breakdowns in family relationships become evident, educational efforts designed to equip family members with new ways of dealing with their problems should be offered through family counseling programs. Trained therapists should determine the most efficient treatment to help families work out their conflicts. Counseling services should be offered on a noncoercive basis and communities should encourage participation by family members before their problems reach a crisis level. Where the problems are of a more serious nature or where violent reactions are more imminent, crisis intervention centers, also staffed by persons trained in family counseling, should be utilized.

IMPLEMENTATION—USE OF THESE STANDARDS BY OFFICIALS AND PLANNING AGENCIES OF STATE AND LOCAL GOVERNMENT

The foregoing provides an overview of the broad scope and grave urgency of the juvenile delinquency problem. The characteristics of the generally inadequate response that has been mounted to date are described briefly, along with some of the confusion that prevails in the wake of significant changes in the newly emerging case law, in the widespread code revisions, and in the increased emphasis on the need to accord juveniles the rights provided for all citizens. The gross disparities prevailing at every decision level and the tremendous variation in operating policy, case dispositions, and level and severity of sanctions imposed also are noted.

It has been suggested here that the questionable effectiveness of the juvenile justice system during the past decade has contributed to the existence of a large population of now stigmatized youth, many of whom already have graduated into the burgeoning caseload of the criminal justice system and many more of whom will in the decade ahead. The Nation's inability to deal effectively with transgressing adolescents thus guarantees an adult crime problem that will outstrip any that America has known to date.

The foregoing also has emphasized the increasingly ugly, violent nature of juvenile delinquency, and pointed out that the minority youth (primarily blacks) are substantially overrepresented in each segment of the juvenile justice apparatus.

These social blights call for nothing less than a heroic response from each level of government and from those nongovernmental entities and citizens who help shape the nature and quality of life in America.

Fortunately, Congress and the Federal Government, after a decade of minimal and confused effort, have set forth a new law[19] that places greater emphasis and commits greater resources to the effort to check juvenile delinquency. LEAA, its regional counterparts, and its affiliated State justice planning agencies are obligated legally to reflect the new Federal emphasis in their planning and resource allocating functions. It is hoped that this combined, expanded responsibility will provide for the routine collection, analysis, and dissemination of statistical and other information pertaining to the operations of the juvenile justice system, including the courts and State and local probation and corrections agencies. Because the mechanisms to promote reform are located with the States and their political subdivisions, it is here that most of the major reform measures must be generated.

It is urged, therefore, that each State undertake a systematic re-examination of its juvenile justice processes, the division of responsibility, the adequacy of existing resources, the effectiveness of program elements, and the appropriateness of organizational and administrative structure. A State strategy for delinquency prevention should be designed and implemented; this may entail as much organizational and promotional effort as the entire reassessment of the juvenile justice process.

The end product of these two steps should be a comprehensive master plan for delinquency control. The responsibility for implementing that plan should be lodged with the appropriate State agency. It is probable that substantial investment of State monies will be required to insure compliance with prescribed operating norms.

The statement of standards and goals that follow defines the objectives and suggests many of the means for juvenile justice reform. They can become the major building blocks for the construction of a national strategy for delinquency control.

These standards are the end product of a careful and thorough analysis of key issues, problems, and aspirations in juvenile justice and delinquency prevention. They represent the cumulative best judgments of the Task Force based on their research, experiences, expertise, and knowledge of the subject. The ways in which the standards are used and applied will establish their true merit.

The standards provide the philosophy and framework for the administration of a juvenile justice program. By themselves, they cannot guarantee a minimum level of service; only administrators can do this. Administrators who are so inclined can subvert, twist, and bend any set of standards to meet their own ends. It is unrealistic to expect that mere promulgation of national standards will somehow provide the quality control that the public generally expects of its juvenile justice programs. State and local administrators have the responsibility to maintain this quality control by using the standards as guidelines in developing their own administrative directives.

Any standards recommended for application to the many diverse jurisdictions throughout the country necessarily must be general and avoid detailed specificity. The specifics of each standard will have to be provided by each State, and, in some cases, because of special circumstances, by local jurisdictions.

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[19] Juvenile Justice and Delinquency Prevention Act of 1974, 42 USC 5601 *et seq.*

If the standards recommended are seen in this light, it becomes clear that implementation will involve a two-phase process:

- A planning process designed to apply the national standards to local circumstances, adding specificity where needed, and, in unusual cases, providing for variances in exceptional situations.
- Creation of the administrative apparatus and adoption of the policies and procedures necessary to convert the philosophies expressed in the standards into operating procedures.

The Planning Process

It is crucial that the standards be accepted and endorsed both by the public, which controls the funds, and by the professionals, who must conform to the constraints or limitations. Neither group can operate alone; they are irrevocably intertwined and interdependent. Unless the public, or, more specifically, the public's representatives who control the purse strings, understands and accepts the need for the level of service prescribed by the standards, funds will not be provided and the standards will become meaningless platitudes. Moreover, the public cannot be brought into the planning process after the fact merely for information, education, and interpretation. The controllers of the purse strings must understand the need for the standards, the alternatives that might be available, the potential costs of the recommended steps, and the consequences of taking no action at all. Unless the public is included in the decisionmaking process in adopting the standards, their commitment to provide funds is likely to be less than enthusiastic.

Various methods may be used to achieve this kind of endorsement and support. This is where State government can assert its leadership and define its role. In most States, at least where the handling of delinquent children is concerned, it is clear to professionals and informed citizens where this leadership responsibility should lie. Where it is not clear, the Governor could invest an existing department or other executive unit with responsibility for developing and implementing standards.

This does not require major statutory changes. Although such a procedure may get the ball rolling toward major revision of State and local responsibilities in the juvenile justice area, such a revision is not essential to begin the implementation process. What is necessary is the courage and resolve to initiate a planning process that involves a probing evaluation of existing policies and practices.

A Statewide Conference

One method of initiating the process is to call a statewide conference or a series of regional conferences or mass meetings to get input from all interested persons and agencies. Although a totally unstructured conference is not advisable, it is imperative that the conferees understand that the recommended national standards are not being imposed upon them and that indeed they do have an opportunity to do more than merely react to something already developed. They must be made to feel that the national standards are essentially guidelines to be used in formulating their own State standards. Additionally, they must be encouraged to view standards not solely as control mechanisms, but as resources for both planning and operational units of the juvenile justice process. It should be remembered, however, that the policies reflected in the national standards may be critical in determining how Federal subsidy monies will be invested.

Any conference or mass meeting should involve all agencies or organizations professing to have an interest in the standards. Because the purpose is to get input, no one who thinks he or she should be there should be excluded. Attendees certainly should include judges and court aides, probation and correctional personnel, welfare officials, law enforcement officers, educators, health officers and other representatives of the medical profession, prosecutors and defense attorneys, and other professionals working directly or indirectly with the juvenile justice system. Representatives from private social agencies, local and regional planning groups, clergymen, recreation administrators, and representatives from various self-help groups and character-building organizations also should be included, particularly when delinquency prevention standards are being considered. Input should be sought from legislators, city and county elected officials who control appropriations, and taxpayer groups. Advisory boards to juvenile justice agencies and civic organizations should not be overlooked.

The conference should not be burdened with unrealistic expectations. The goals of the conference should be to give people an opportunity to be heard and a chance to get conflicts out on the table for later resolution. Although the conference will get the planning process stated, actual formulation and adoption of the State or local standards will not come about until after many meetings have been held, much hostility aired, and many compromises effectuated.

A Media Approach

The conference method is not the only way to get the public involved in the standard-setting process. Another method, already used with encouraging results, was developed in late 1975 by the Division of Social Rehabilitation Services of the U.S. Department of Health, Education, and Welfare. It involves use of the media. The Division purchased major newspaper display in which the provisions of title 20 of the Social Security Act were set out. Title 20 mandated that each State make known to the public specific provisions of the State's plan for implementing the title 20 program. Moreover, each State was obligated to receive and respond to public comments prior to formal submission of the plan. This method could be used in lieu of meetings or conferences, or it could be used in conjunction with a conference as a means of sharpening issues and focusing on problems.

Regardless of methods used, the process of public involvement is critical because it requires evaluation of roles and responsibilities and forces attention on communication and working relationships, some of which have grown rusty with neglect. LEAA and the American Bar Association (ABA) have emphasized the process of developing standards more than the adoption of the standards themselves. Both groups recognize that this process not only improves the quality of the standards, but also lessens any resistance to implementing them.

Formal Adoption of Standards

Some mechanism must be decided upon for formalizing whatever standards are agreed upon. Enabling legislation, following appropriate public hearings, should empower some department of the executive branch to set mandatory or nonmandatory standards. The director of that department should be given final authority to adopt and revise the standards as necessary, and should be directed to employ appropriate methods for obtaining public involvement in the standard-setting process. If conformance to the standards is to be mandatory, some type of State subsidy will be necessary. However, nonmandatory standards usually will achieve substantial improvements in level of service if State funds are made available to jurisdictions meeting the standards.

Experience in those States with subsidy programs shows clearly that few jurisdictions will defy standards if it means the loss of dollars. Statutorily, the standards may be permissive; realistically, they are compelling. The subsidy does not have to be large to achieve this result.

In some jurisdictions, subsidies are used to pay half the costs of salaries only, with no subsidy for other operating costs. In other places, subsidies are used only for special enriching services not usually provided. In all instances, however, minimum standards must be met to qualify for the subsidy.

It is important that the State show some interest and assert some leadership. The legislature must be willing to pass enabling legislation authorizing the standard-setting function, and the Governor must be willing to designate one of his or her cabinet officers to provide this leadership.

The larger issue of State and local responsibilities, e.g., who will operate the probation function, who has responsibility for delinquency prevention programs, etc., need not be resolved as a precondition for starting the planning process. It certainly would be a plus if these larger issues could be settled before standards are set, but it is not a prerequisite. A simple enabling act by the legislature, with or without funds, and a gubernatorial directive are all that is required to begin the process.

Enabling Legislation

The planning process starts by involving officials, agencies, and the public, and eventually culminates in the adoption of standards and goals. But this process then must be carried into the legislature. Once standards are adopted in any State, enabling legislation undoubtedly will be necessary before implementation can take place. The standards in this report provide a recommended framework for juvenile code reform and, in fact, many of the standards are already in a form that can be converted easily into legislation.

Standard-Setting as a Dynamic Process

If standards are to be useful, they must be viable and dynamic. They must be responsive to changing circumstances and to the changing moods of the public. There should be no such thing as a single standard-setting meeting or series of meetings. Standards should be reviewed and evaluated constantly. Moreover, when any change, no matter how minor, is proposed, the public must be involved. On the surface, this may seem like bureaucracy gone mad, but it need not be this way at all. When people understand that standards are dynamic and will undergo constant change, they will be less resistant to initial adoption of those standards.

The process of change must be orderly and well understood. It must not be cumbersome. But at the same time it must provide opportunities for all to be heard even though this is time-consuming and occasionally results in lengthy delays.

The implications of this are great. The machinery organized to draft the initial set of standards is never disbanded entirely. There is merit to the suggestion that there be an annual review of standards. This would insure that they always are updated and responsive to changing attitudes.

Revision of standards inevitably involves logistical problems. Not only must hundreds of persons be involved in considering the change, thousands must be informed after the change has been made. These kinds of problems weigh heavily against any change at all, but the tendency to remain with the status quo must be resisted if the standards are to have real meaning.

Compliance With Standards

After the standards have been established, the difficult task of securing acceptance and compliance begins. If the legislature has made compliance mandatory, the task is one of simple enforcement, though the enforcement of standards never can be described as simple. Judgment must be used in the application of any standard, and slavish dedication to the letter of the regulation often destroys its spirit and intent. Favoritism and cronyism have no place in the enforcement of standards, but neither does an unyielding unwillingness to accept minor variances that are unimportant when weighed against the more important components of the program.

Many organizations with extensive experience in applying standards speak of substantial compliance instead of compliance. This recognizes that certain standards are more important than others, and if there is at least marginal compliance on the relatively unimportant components, this will not weigh heavily when measured against the clear compliance of the major items. If this attitude did not prevail, standards would have to be written only for the most important items, and the standards' usefulness as a tool for planning bodies and budget decision-makers would be curtailed sharply.

If the legislature makes the standards nonmandatory but provides funds for jurisdictions that comply, the same general rules for monitoring should apply. If, however, the legislature makes the standards nonmandatory and provides no funds, the monitors become in fact consultants, and their usefulness is directly related to their competence, image, and powers of persuasion. If the legislature is unwilling to appropriate subsidy funds for complying jurisdictions, it is quite possible that it will be unwilling to fund any monitoring at all.

The same State agency that sets the standards should be responsible for monitoring compliance. Annual reports should be submitted to the legislature detailing what progress has been made in complying with standards and making any needed suggestions for legislative change.

Delinquency Prevention—A Stepchild

Implementation of standards regarding the prevention of delinquency involves a whole new set of ideas. Nebulous in concept, imprecise in definition, and devoid of demonstrably effective techniques, delinquency prevention has been a veritable stepchild wandering in the wilderness of the juvenile justice system. The concept of preventing delinquency has been exclusively attractive, and many youth-serving agencies have attempted to justify the bulk of their programs on the basis that they are preventing as much delinquency as anyone else. In light of current knowledge about delinquency causation, they may be entirely correct. Certainly, the prevailing opinion among juvenile delinquency experts is that, if delinquency is multicausal, its prevention must be multifaceted. If any agency is attacking any of the root causes of delinquency, it is ipso facto engaged in preventing delinquency. This raises, however, serious questions about coordination and elimination of duplicative and competing programs.

What is sorely needed at the present time is a State office of delinquency prevention to provide some coordination and planning capability, as well as a rational basis for the dispensation of tax dollars. In this field particularly, it is necessary to establish priorities, because it is impossible to attack all of the root causes of delinquency at the same time. Whether this office should be located in the Governor's office, with the State Criminal Justice Planning Agency, with the State department or agency responsible for implementing the other correctional standards, or with some other branch of the executive department is a matter best left to the discretion of the States. What is important is that someone at the State level have responsibility for bringing order out of the present chaos that prevails in most States.

Part 2
Delinquency Prevention

INTRODUCTION

There is evidence of much interest in reducing juvenile delinquency through prevention programming. The Juvenile Justice and Delinquency Prevention Act of 1974 mandates Federal support for the prevention of delinquency, and there are renewed calls from many segments of the population for improved prevention efforts at the State and local levels. In recent years, increasing amounts of Federal monies have been allotted for preventive programs. In fiscal year 1971, the Federal Government funded general youth programs totaling $10.5 billion. Less than 10 percent of these monies were specifically allocated for delinquency prevention. The Law Enforcement Assistance Administration spent nearly $100 million on juvenile delinquency programs in fiscal year 1972.

The idea of delinquency prevention has had almost universal support within the community and among juvenile justice practitioners. However, few of these supporters are aware of the choices that must be made, the costs of differing approaches to prevention, and the methods of assessing prevention impact. There are few delinquency prevention programs usable as models, and there is a pervasive belief that prevention represents an area best left to the sole judgment of experts.

Increased interest in delinquency prevention derives partly from the apparent successes of preventive models in the area of public health and medical services. Moreover, in the past several years, Americans have seen the expansion of prevention programs in social service areas from community mental health to welfare and from child abuse to nutrition. In the delinquency prevention area, the same degree of success has not been reported. In fact, an extensive review of delinquency prevention literature shows almost no systematic evidence in support of specific prevention efforts.[1] Such findings have caused critics to object to prevention programs, on the grounds that they tend to expand the network of bureaucratic control over youth without producing benefits.

Nearly a decade ago, criminologist Peter P. Lejins concluded that prevention was one of the least developed areas within criminology. He characterized the prevailing theoretical basis of most prevention work as "moralistic beliefs, discarded criminological theories of bygone days, and other equally invalid opinions and reasons."[2] Present day advocates have stated that this sober judgment is still valid.

The conceptual confusion about the nature of delinquency prevention continues to retard the development of sound theory. Lack of clarity and precision in prevention efforts has often stymied governmental action and, in some cases caused public officials to be too optimistic about approaches of questionable merit. In spite of the uneven history of delinquency prevention, virtually every national commission on crime and criminal justice has endorsed the idea of prevention as a priority.

Rather than abandoning the concept of delinquency prevention, however, this report reiterates the need for a careful and honest assessment of the existing state of the art in delinquency prevention and recommends that new efforts proceed according to reasonable and valid criteria. Only through a clearcut confrontation with past failures can the necessary knowledge and understanding be gained for positive delinquency prevention efforts.[3]

The Concept of Prevention

Broadly defined, prevention is a societal action to deter, correct or preclude potentially harmful conditions or behavior. Prevention is often contrasted with control. Control represents the social response to a criminal or delinquent act. Control efforts are motivated by acts that have already taken place.

Prevention efforts are based upon the anticipation of future actions. This definition raises other issues. It may not always be clear whether delinquency prevention efforts should focus on current behavior of the child and the child's family or if there is a real predictable future behavior. The concept of juvenile delinquency, as envisioned by the founders of the juvenile court, has always implied a preventive function—action aimed at preventing the child from becoming an adult criminal.[4] Social action based upon anticipated future behavior implies the capacity to predict delinquent behavior accurately. There are serious doubts that society currently has that capacity.

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[1] Wright and Dixon. *Evaluation of Delinquency Prevention Programs.* National Science Foundation.

[2] Lejins, Peter; Amos, William; and Wellford, Charles. *Delinquency Prevention.* Prentice-Hall, 1967: 1.

[3] Krisberg, Barry. "The Politics of Delinquency Prevention: The Case of Urban Leadership Training Programs," *Social Policy*, July-August 1974: 53–6.

Yet another conceptual problem of prevention is how to measure the effectiveness of a prevention program. It is difficult enough to draw a causal inference about the effect of one action that produces another action, but in prevention the research must prove that one set of actions led to anticipated events not happening. The several studies that have found high rates of unreported delinquency suggest that small changes in official delinquency rates may not reflect changes in the basic amount of delinquency within a specific community.[5] Some professionals believe that absolute prevention as a goal is impossible. If sociologist Emile Durkheim was correct in saying that a certain amount of crime is inevitable, the best that can be hoped for is a reduction in the rates of delinquency, according to this view.[6]

In the past several years, a number of public and private agencies have attempted to define the nature of delinquency prevention in clarifying their operating philosophy for allocating funds. These efforts have generated the following definitions of delinquency prevention:

1. A measure taken before a delinquent act occurs;
2. Any special service which calls itself "preventive";
3. Any attempt to deal with particular conditions believed to contribute to delinquency; and
4. The sum of all activities that contribute to the healthy development of children.

The first of these popular definitions creates the problem of defining target population. Some professionals interpret this definition as excluding from prevention programs all youths who have committed delinquent acts at some time in the past. Programs thus might be limited to persons who have never come in contact with the juvenile justice system. According to this definition, most diversion programs are not preventive and need to be separated from purely preventive approaches. This definition has been resisted by many community groups who believe it is wrong not to include previously delinquent youth in prevention efforts. Similarly, many juvenile justice officials believe that the fundamental thrust of diversion programming is to provide preventive social services in lieu of court processing.

The second definition is really an abdication of responsibility for defining. It says, in effect, whatever calls itself prevention will be treated as a prevention program for funding or other purposes. This definition is weak because it excessively dilutes the concept of prevention, and judgments about the relative merits of differing approaches to delinquency are suspended.

The third definition is closest to the scientific use of the term prevention. This definition calls for action based upon a theory that explains the phenomenon to be prevented. For example, if one knows the causes of nuclear chain reactions, it is possible, in principle, to cause these reactions to occur as well as to prevent their occurrence. The causal approach to defining prevention has much intuitive appeal but it is flawed by the fact that knowledge of the causes of delinquent behavior is limited. Many factors continue to be singled out as causal in delinquency, but there is no consensus among researchers and theoreticians except about those factors no longer believed to be related to delinquency, such as biological degeneration and feeblemindedness. Current research and theory in criminology has shifted the causal search to specific types of behavior and has, in part, rejected the search for universal causes of youthful crime.[7] A popular position is that the causes of delinquency may best be explained by a variety of biological, psychological and sociological variables interacting in complex ways to produce delinquent behavior. Some clinicians stress that causal analysis in the delinquency field must be done on a case-by-case basis.

If knowledge of the causes of delinquency is as debatable as the definitions of prevention, then efforts relying on removing causes or prior conditions are undermined by this confusion.[8] Moreover, knowledge about causes does not guarantee that social intervention can affect the causal process. This uncertainty does not mean that the results of research and theory cannot be used. Instead, such results should be used cautiously, with an admission that action is based upon partial information. Much of the causal research merely points out variables that are highly correlated with delinquency, but there is rarely enough valid data to specify the precise method of intervention.[9] Clues to potential groups at risk tend to be general in nature, and there are currently no reliable scientific procedures that would permit the selection of particular youngsters as predelinquents.

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[4] Hawes, Joseph. *Children in Urban Society*. Oxford University Press, 1971.

[5] Williams, Jay and Gold, Martin. "From Delinquent Behavior to Official Delinquency," *Social Problems*, 1972, 20: 209–29.

[6] Durkheim, Emile. *The Division of Labor in Society*. Free Press, 1964.

[7] Gibbons, Don. *Delinquent Behavior*, 2d edition. Prentice-Hall, 1975.

[8] Schur, Edwin. *Radical Non-Intervention*. Prentice-Hall, 1975.

The fourth definition of delinquency prevention, which focuses attention upon the sum total of services to children, is the product of several groups who worked with the U.S. Department of Health, Education, and Welfare sponsored National Strategy for Youth Development and Delinquency Prevention. Inherent in this approach is a general theory of delinquency that is derived from a consideration of factors leading to the optimum development of youth. This strategy calls for broad-scale reform of social institutions that currently affect the lives of children.[10] Critics of this approach are put off by the wide scope of the definition. They view the approach as depending upon levels of community organization that are nonexistent. This definition is viewed by some as illusive and difficult to achieve. Critics point out that there is no clear statement of organizational and institutional responsibility to insure the development of a proper network of human services. The HEW definition suggests long range efforts that might alter many of our social institutions, thus providing unsettling changes within the youth-serving bureaucracy.

It appears that none of the stated definitions is totally adequate to support the development of delinquency prevention programming. What is needed is a definition that reorients public thinking—away from traditional categories and toward new concepts. Delinquency prevention should not be thought of as a specific program or set of programs. Nor should communities wait for wholesale reform of social institutions before there can be meaningful delinquency prevention.

This report defines delinquency prevention as follows:

Delinquency prevention is a process of problem identification, resource analysis and strategy building aimed at lowering rates of delinquency through the provision of services to persons or groups with specific and demonstrated needs.

The primary focus is upon the concept of delinquency prevention as a process. Community efforts at prevention must be organized, continuous, and ongoing. It is at the local level that individuals and groups can best determine the needs of their youth, as well as select the best available intervention method. This approach calls for appropriate units of local government to develop mechanisms by which relevant individuals and organizations are brought together to develop coordinated and comprehensive plans for delinquency prevention in each community.[11] Prevention plans must be translated into meaningful programs at the local level, with adequate funding, expenditure reviews, necessary revisions, and improvements. Communities need not look for one new approach but for old and new approaches that are based upon valid criteria and appear to have promise for solving their local delinquency problems.[12] Delinquency prevention cannot wait for societal reform, but must take place within the context of existing strengths and weaknesses of the social fabric.

Scope of Delinquency Prevention

The scope of prevention programming has often been the center of public debate on delinquency prevention. One dimension of this issue concerns the target populations or client groups. A second dimension has to do with competing methods of prevention, each having different operating assumptions about the fundamental nature of delinquency. Implicit in this debate are questions of institutional and agency responsibility, as well as questions about the selection process of program participants. Underlying both dimensions is the question of the adequate funding levels that must be made available to support any prevention programming.

Literature in the delinquency prevention area generally refers to three kinds of target populations for prevention service: primary, secondary, and tertiary.

Primary prevention refers to a service delivery strategy that includes the broadest possible number of clients within a service area. The intention is to deliver the service to all clients without regard to the potential delinquent behavior risks of specific individuals. This mode of prevention is most often used in the public health field when, for example, there is a massive campaign to give school children inoculations or an areawide screening for breast cancer. Primary prevention rests upon the logic that the most effective prevention is to insulate the entire population at risk from the predisposing conditions. An example of this concept in delinquency prevention would be the elimination of violence on television.

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[9] Hirshi, Travis and Selvin, Hannan. *Delinquency Research: An Appraisal of Analytic Methods*. Free Press, 1967.

[10] Center for Action Research. *National Strategy for Youth Development and Delinquency Prevention and Conceptual Issues*. University of Colorado, Document #34, 1971.

[11] National Advisory Commission. *Standards and Goals for Community Crime Prevention*. Government Printing Office, 1973.

[12] Krisberg, Barry and Takagi, Paul. "Ethical Issues in Evaluating Criminal Justice Demonstration Projects," in Reidel and Chappel, *Issues in Criminal Justice*. Praeger, 1975.

In secondary prevention, selection for inclusion in prevention programs is made upon the determination that a particular group of potential clients is in greater danger than the rest of the population, thus requiring specific services. Secondary efforts are usually guided by the belief that targeted services to the right sample of the population will have preventive impact. An example of secondary prevention programs would be recreation activity set up in low income areas because it is believed that teenagers from these areas are the largest proportion of youngsters who are referred to juvenile court. In secondary approaches, however, the selection process itself may stigmatize the participants. Also, the criteria of selection may be incorrect.

Tertiary prevention involves those youngsters who have already begun to have difficulty with the law. They may have been referred to police as status offenders, or they may have been charged with school misconduct. The object of the tertiary programs is to limit the involvement of the child with the juvenile justice system—to deliver preventive services early enough to avoid the development of a more serious delinquent record. Diversion programs, some school counseling programs, and youth service bureaus are examples of tertiary programs in that they deal primarily with already troubled children. These programs are preventive in the sense that they seek to eliminate the behavior causing problems for the child and they attempt to prevent future delinquent behavior.

Theorists have devoted much space in prevention literature to the relative merits of primary, secondary, and tertiary prevention. Such theses tend to dwell on the ability of each type of prevention approach to yield measurable results, as well as the relative costs. Often, discussions about the scope of prevention efforts get bogged down in the choice of the best approach. Unfortunately, these debates are rarely productive because the participants feel they must make a choice that is rather ambiguous.

Primary, secondary, and tertiary approaches each can be effective, depending upon the nature of the services to be delivered. Some programs are best administered at a primary level because the process of making selections within the target population would be inaccurate, or it would be difficult to withhold services from some members of the community without causing problems. Similarly, other programs such as family counseling are clearly aimed at helping a more identifiable subpopulation; i.e., those families experiencing difficulties that they cannot solve. In most instances, diversion presumes a tertiary population. Thus, the selection of the population to be served must depend upon the analysis of the problem to be prevented and the program service to be delivered. In general, this choice is to be made in terms of the strategy that least disrupts community life and that does not unnecessarily stigmatize the intended beneficiaries. Cost projections of particular prevention services should be made after there is some agreement about the nature of the service to be delivered and the size of the target population. Using cost effectiveness as the sole factor is the wrong approach regardless of the funding level.

When levels of funding allow, the more inclusive strategies of delivering services should be considered. The final mix of primary, secondary, and tertiary programs should flow from an analysis of the numbers of youngsters who fall into each of these service categories, the nature and kinds of services to be provided, and any alternative methods of prevention.

The second dimension of the issue of scope concerns the content of the prevention approach to be used. The following are different basic approaches to delinquency prevention:

1. Deterrence;
2. Mechanical prevention;
3. Reform of social institutions;
4. Environmental design; and
5. Individual treatment or assistance.

Deterrence approaches aim to discourage the potential offender by increasing the chances of capture and the penalty for wrongdoing.[13] Mechanical prevention refers to approaches that simply redefine the behavior as nonoffensive.[14] Thus, if possession of marijuana is no longer defined by law as a crime, one would expect to see an automatic drop in the numbers of persons who are arrested for this behavior. Many have suggested that legislatures should reduce the scope of the behavior presently labeled as delinquent so that the juvenile justice system can focus upon more serious behaviors.

Reform of social institutions refers to those prevention strategies that seek to alter the allegedly negative impact upon children of various institutions such as the schools, the welfare system, the job market or television.[15] The focus is usually upon practices within these institutions that are believed to contribute to delinquency. Environmental design approaches to delinquency prevention include attempts to make housing and streets more secure against criminal behavior.[16] Design is used to increase visibility and to encourage more citizen use of public space. Treatment of or assistance to individuals is a popular mode of prevention programming. The focus of individualized programs is to help the child and his family discover the negative forces in their lives and to deliver supportive or developmental services to help clients overcome personal difficulties.[17]

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[13] Zimering, Frank and Hawkins, Gordon. *Deterrence*. University of Chicago Press, 1973.

[14] Schur. *Radical Non-Intervention*.

[15] Schur, Edwin. *Our Criminal Society*. Prentice-Hall, 1969.

There has been a great deal of attention paid to the relative merits of each of these approaches, but these discussions have tended to polarize into debates over the "best" method of prevention. There is no compelling research evidence, however, that supports the exclusive choice of one approach. With each of these five basic delinquency prevention approaches there have been successes and failures. The key issue is not whether one style of prevention is ultimately superior to the rest, but rather which preventive approach best suits community needs and problems.

The best delinquency strategy for most communities may be a balance of these five approaches (see the California Strategy).[18] An important factor in constructing the appropriate mix of services is the theory of prevention that is agreed upon by the planners. It is not crucial that the theory be the correct one, but the one that suits the situation, allowing for continuous evaluation and new input.

Past Approaches and Problems in the Prevention Area

The history of attempts at delinquency prevention is uneven and disappointing. Prevention programs have been underbudgeted and largely unconnected with other juvenile justice operations. Or there have been large amounts of funds expended upon one specific program model with questionable results.[19] The proponents of prevention have often frequently split into camps favoring particular approaches. Often the issue is put in terms of prevention as a short term programmatic effort versus prevention as an overall reform of the entire society. Whereas individual programs have had some theoretical basis, consistent use of theory in formulating prevention programs is difficult. Given the state of the art, conscientious efforts to strengthen the connection between prevention theory and prevention practice should be encouraged. Some programs have been poorly designed, with unclear or unreachable objectives and little community support. Other programs may have developed without consultation with the agencies and groups who use them, thus fostering suspicion and distrust.

In recent years there has been a procession of prevention approaches disseminated at the national level to the States and communities which has produced little in the way of useful results. Prevention continues to be viewed by many public officials and criminal justice personnel as a luxury to be considered only after established agency budgets have been approved. There is almost no evidence of meaningful statewide plans to organize and deliver prevention services. This situation is quite critical given the emphasis placed upon prevention in the Federal Juvenile Justice and Delinquency Prevention Act of 1974.

Despite much attention devoted to reanalyses of the roles of the police, the courts, and corrections, the development of effective delinquency prevention programming continues to be given a low priority and too little attention.

One of the symptomatic problems in prevention is that many public officials and citizens demand levels of results in prevention programming that are higher than those expected from programming in other juvenile justice components. For example, each prevention program is held to the critical test of demonstrating a reduction of delinquency, with the results required to be capable of measurement. These criteria are excellent if society is concerned about results per criminal justice dollar. However, it is extremely rare that police, correctional, or court operations are subjected to the same level of rigorous scrutiny. Thus, if prevention does not stand up well under such critical analysis, it should be asked if other components of the juvenile justice system have demonstrated any better levels of effectiveness or efficiency.

National commissions have not been able to generally enhance the quality of theory and practice in the prevention area as expected. For example, the President's Commission on Law Enforcement and Administration of Justice (1967) added relatively little to the existing discussion of prevention. The authors of that report took the position that the root causes of juvenile delinquency were located in the major inequities of American society—particularly the limited legitimate opportunities of inner-city ghetto youth. The Commission called for a national program of social reform in the areas of education, employment, housing, and criminal justice. However, the Commission only offered the model of a youth service bureau as one concrete organizational solution to the complex problem of delinquency. The authors stressed the concept of diversion as the best approach in the prevention area, causing great attention to be paid to that concept, with other approaches being neglected.

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[16] Jeffrey, C. Ray. *Crime Prevention Through Environmental Design.* Sage Publications, 1971.

[17] Nye, Ivan. *Family Relations and Delinquent Behavior.* John Wiley, 1958.

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The basic premises of the 1967 Crime Commission are echoed in national reports on the subjects of urban riots, violence, marijuana and drug abuse, as well as the early work on standards and goals for criminal justice. The only noticeable changes in prevention thinking have been the inclusion of more emphasis upon citizen participation and a growing recognition that there will not be massive levels of funding for social reform in the near future. The scope of action for prevention has been narrowed without a clear redefinition of the concept of delinquency prevention to fit the political and economic constraints of the present.

A promising development in the prevention area was started under the auspices of the National Strategy for Youth Development and Delinquency Prevention. Social scientists and practitioners associated with that project began to develop research and theory necessary to upgrade the quality of prevention services. The research team at the University of Colorado did exemplary work in elaborating a general theoretical approach worthy of empirical testing. The basic premises of the National Strategy approach were that delinquency was a product of limitations upon access to desirable social roles for youth and that delinquent youth were subject to premature and inappropriate labeling. This general scheme was both developed conceptually and given practical applications which might have tested many of the key concepts. Unfortunately, the National Strategy was plagued by the traditional problems of prevention—inadequate levels of funding, the demand for instant and measurable results and the tendency to assign a low funding priority to basic experimental research in the field of delinquency prevention. There are reasonable grounds upon which individuals can differ with the ideas and conclusions of the National Strategy for Youth Development and Delinquency Prevention, but funds must be made available at the national level to support basic research and demonstration projects to further a base of knowledge in the area of delinquency prevention. Without substantial investment in the development of ideas and techniques of prevention, the progress away from the failures of the past will be slow.

Task Force Philosophy and Approach

The intention of the Task Force in the development of standards and commentary in the delinquency prevention area is to reorient thinking throughout the Nation on the subject of delinquency prevention. The Task Force has developed specific recommendations for review and analysis, and has tried to limit standards to those that can be supported by research and experience. Sufficient time or resources were not available to further develop theory and practice in the prevention area. It is hoped, however, that a congenial framework has been provided in which such development can take place. Four basic principles guided the development of these delinquency prevention standards, indicative of the basic philosophy of the Task Force. These principles were also used to structure the approach to the difficult task of conceptualizing the prevention area, as follows:

1. Action should be based upon knowledge.
2. A local or community approach is best in developing prevention programming.
3. Prevention efforts should permit maximum community and citizen involvement in all aspects of program planning, implementation and evaluation.
4. Clearly identifiable structures should be established for the organization and planning of prevention efforts.

Action Based Upon Knowledge

Many of the standards in this volume stress the importance of developing good systems of information and using improved methods of analyzing data about delinquency. The careful evaluation of prevention programming will result in more usable knowledge that can refine programmatic approaches. There is a consistent attempt in each of the standards to rely upon the most current research findings in the various program areas.

Too often, action in the prevention area has proceeded according to whim or wish rather than knowledge. There is a great need to develop our knowledge base, but we can begin to improve our efforts by the informed use of the existing body of research and theory on delinquency and human behavior. The Task Force has not put forth its own theory of delinquency but wishes to underscore the critical importance for prevention planners to make their theories explicit and to build prevention programs from well thought-out statements of objectives and explanations which link program activity to desired program outcome. Until prevention theory becomes more intellectually honest, prevention programming will proceed erratically.

The Principle of Localism

Juvenile delinquency is a problem of national scope, but variations in the nature and extent of the problem exist for each community. The Task Force rejects the outmoded ideas of imposing a single theory or program model upon every community. The best prevention strategy for each community must be made to fit the specific demographic, cultural, and historical uniqueness of that area. The Task Force approach is to offer a method for each appropriate unit of local government to make the necessary assessments of the delinquency problem and the available resources to meet its particular problem. This report puts forth the idea that the development of cooperation and coordination of prevention services is crucial to the success of prevention programming. The standards presented are designed to assist communities in developing consistent institutional and citizen support for delinquency prevention. The choice of the local level as the center of action is consistent with the view that people closest to the delivery of services can best point out the difficulties of these services and make necessary improvements, if provided with the incentive and authority to take responsibility for local problems.

Maximum Community and Citizen Involvement

Community support and citizen involvement in criminal justice efforts are key components to crime reduction and the administration of justice. Research has demonstrated the role of community support in promoting law abiding attitudes among the young. Virtually every programmatic idea in the prevention area requires the constructive collaboration of citizen and practitioner to meet specific objectives. In many areas of community life a gap between people and the social institutions of the community has contributed to problems related to delinquency. The key issue involves the promotion of meaningful citizen support and involvement on behalf of delinquency prevention.

The process model in the following standards is aimed at units of local government, but many of the steps outlined are useful to neighborhood and citizen groups who wish to develop an organized approach to delinquency in their areas. The process is aimed at enhancing the information available to all segments of the community and to facilitate productive communication that leads to positive programming. Prevention planning, program development, and outcome evaluation should actively involve all members of the community who wish to contribute to a reduction of delinquency.

Prevention efforts must be inclusive and open to avoid the stultifying of ideas and practices that has plagued the prevention area in the past. Delinquency prevention is not the sole domain of experts. Social scientists and juvenile justice practitioners should serve public needs for information and knowledge so that citizens can make intelligent decisions about the kinds of prevention programming that should occur within their communities.

Clearly Identifiable Organizational and Planning Structures

A significant reduction in delinquency is not possible if the responsibility for delinquency prevention is left unclear, or if it is left to single or multiple social service agencies. Delinquency prevention requires the commitment and participation of a broad range of institutions, agencies and individuals from both the public and private sectors. A major problem in this area, however, has been the absence of an organizational structure in which comprehensive and coordinated planning for delinquency prevention can take place. This lack has most often resulted in piecemeal delinquency prevention programs. Many agencies have tended to duplicate services, while other needed services go neglected. Very often, prevention efforts by various agencies have worked at such cross purposes that the overall positive effect has been minimal.

There is a need for specifically designed and clearly identifiable agencies to take leadership roles in integrating the efforts of a wide spectrum of groups and individuals into a unified prevention strategy. In the standards that follow, a local level Office of Delinquency Prevention Planning is advocated. It is crucial that some organizational body exist that has the ability to structure a prevention plan to meet the unique needs of a particular locality.

At the State level, the standards suggest coordination of delinquency prevention in an agency having broad responsibilities for youth services. The prevention focus of this agency would be to encourage the development of relevant services in localities and to provide financial support for the prevention of delinquency.

It must be stressed that neither of the above suggested organizational arrangements should be thought of as completing a community's delinquency prevention effort. As stated, delinquency prevention is a process that requires societywide involvement. The establishment of permanent organizational and planning agencies, however, will reduce the fragmentation that is presently characteristic of delinquency prevention.

The Delinquency Prevention Standards

In the next three chapters, an analysis of the present state of delinquency prevention is presented, as well as a series of standards to guide State and local action in this area.

The standards in the first chapter present a series of steps that States and local communities must follow if they are to mount successful prevention efforts. The standards are designed to reorient traditional thinking about prevention towards a productive and rational process approach to delinquency prevention.

The second chapter in the Delinquency Prevention section of this volume focuses upon the coordination and delivery of prevention services. In this chapter the Task Force presents a series of standards dealing with the shared responsibilities of different levels of government. Methods for institutionalizing better collaboration among all public agencies concerned with delinquency and youth problems are also included.

The third chapter offers specific programmatic proposals that are intended to help localities shape programs designed to prevent delinquency. These programmatic proposals represent a present state of knowledge which, although imperfect, does have concrete implications for public and private action. Taken together, these three chapters offer a method, an organizational context, and the content with which State and units of local government can launch meaningful efforts to prevent juvenile delinquency.

Debates about the scope and types of prevention programs continue. More hard research is needed before anyone can pass final judgments about particular kinds of programs. The Task Force argues for a broad conception of prevention activities including all child-related agencies. The narrow focus on small scale efforts limited to first offenders restricts the scope of prevention to the point of making it an extension of the corrections system. Prevention efforts should, instead, be tied to theories about the causes of delinquency and programs should attempt to cover areas of demonstrated relations between delinquency and other areas of youth development. At the same time, this report has acknowledged the diversity of the delinquency problem among communities and has stressed a localized approach to the development of prevention programming, with grassroots-level involvement.

Prevention can be an important approach in reducing delinquency within our society if State and local efforts proceed in careful and reasoned directions. It is a time of scarce public and private resources in which program dollars must be invested wisely. Action should be based upon an expanding base of scientific knowledge. Prevention programs should be open to the widest community and citizen involvement and these citizens should be given access to the information necessary to refine and improve their efforts. Persons in the prevention field must be willing to experiment and try new approaches. These new approaches together with traditional methods of dealing with delinquents should be subjected to careful review and evaluation.

The Task Force offers no panaceas. There are pressing needs in basic development of the theory, practices, and policies in the area of delinquency prevention. The needed reorientation of the field must include programmatic and organizational issues. The next three chapters are offered to provide a framework for the discovery of effective methods of reducing the individual and social costs of juvenile crime.

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Chapter 1
A Delinquency Prevention Process

INTRODUCTION

An important facet of this report's approach to delinquency prevention is the concept of prevention as a process that requires communitywide participation. In this chapter, the process of delinquency prevention has been cast within the framework of a planning model in which participants in the process go through a series of logical steps to specify the community delinquency problem and decide upon a rational action strategy. This approach covers the full cycle of data collection and analysis, problem identification, goal setting, resource analysis, and strategy building in the prevention area.

The emphasis of the standards in this chapter is upon a comprehensive approach to reduce delinquency through prevention. Solutions can only flow from sincere community efforts to engage in a process of learning about conditions affecting youth and commitment to develop strategies of action that can be tested and refined in a spirit of discovery, involvement, and community support.

The act of planning is a circular process. Solutions to old problems give rise to new problems. Any decision that is made in relation to the prevention of delinquency may have effects that go beyond the immediate problem under consideration. Changes made in one agency for the purposes of delinquency prevention will often substantially affect a related agency. For example, the practice of diverting minor offenders from the juvenile justice system not only creates new problems for persons outside of the system, but it also changes the composition of those who are handled within the system. It is essential, therefore, that responsive and flexible structures within agencies working to prevent delinquency be developed and that the many probable outcomes resulting from any prevention decision be carefully articulated. It is through the process of comprehensive planning that such efforts can best be undertaken.

Developing a Comprehensive Delinquency Prevention Plan

A comprehensive plan provides a valuable tool that can be used by agencies and individuals within a community to guide their individual actions in the delinquency prevention effort. The plan should provide a clear picture of the community's delinquency problem, with a rational strategy for delinquency reduction unique to the community in question. It should allow agencies, groups, and individuals to understand readily how their contribution will best fit into the community endeavor. The plan itself, however, should not overshadow the benefits that are derived from the process in which the plan is developed. Comprehensive planning affords a framework for examining the numerous relationships that exist within the scope of delinquency prevention. Differences in operating philosophies among the relevant groups and agencies and disagreements between citizens and agencies may be openly discussed. Hopefully, a better understanding of each set of problems will be reached. Participants in the planning process may be forced to resolve a number of conflicts in order to reach collective agreement about delinquency prevention. Such unresolved conflicts prohibit delinquency prevention from proceeding in a well coordinated fashion.

Collecting Delinquency Data and Profiling the Nature of the Delinquency Problem

Delinquency prevention programs have been often planned and implemented on the basis of uninformed speculation about the nature of a community's delinquency problem. Prevention efforts at the local level have also been prone to follow the emphases of higher levels of government. Emphases are normally made known to the localities by the amount of funds made available for particular prevention programs. The basic philosophy of this report is that delinquency prevention should be planned and should proceed from the local level. Of equal importance, action should be taken only after a complete analysis, based on sound information, is made of local problems and needs. As delinquency prevention is itself a continuous process, so too must be the process of data collection and analysis. The data on delinquency as currently collected by criminal justice agencies are normally inadequate for the purposes of comprehensibe delinquency prevention planning. Communities must establish mechanisms that can carry out the necessary data collection and analysis functions on an ongoing basis.

Clarifying Delinquency Prevention Goals

In the process of integrating the interests of participants from a variety of backgrounds into one unifying delinquency prevention plan, disputes may arise over the prevention goals that the community should seek to achieve. Each participant in delinquency prevention efforts attempts to do what is best for youth in general, as well as the total community. Opinions about the best course of action in delinquency prevention may vary widely depending on the participants' views about the characteristics of delinquent youth, the seriousness and incidence of particular types of delinquent behavior, and the extent of the overall delinquency problem. Rational discussion about differences in philosophy and goals of delinquency preventions can only take place after the different assumptions of each participant are made clear. Standard 1.4 suggests the utilization of self-assessment surveys to achieve this purpose.

Community Resources

Delinquency prevention cannot be dependent upon specially earmarked resources from high levels of government funding. Comprehensive delinquency prevention requires the financial participation of many community institutions that do not include delinquency prevention as one of their primary purposes for being, but who nevertheless may be unlikely recipients of delinquency prevention funds. In most communities, there is no account of what resources presently exist for prevention purposes and what new resources are needed. Very often, this has led to a number of community agencies setting up duplicate services when the resources used to run these services could have been spent in areas where no service was being provided. An important duty of planners should be the compilation of all available community prevention resources, made available to both planners and potential service users.

Integrating Individual Prevention Programs into the Community Comprehensive Plan

Participants in comprehensive delinquency prevention planning will often face the problem of allocating the limited amount of funds available to a large number of groups that have formulated proposals for delinquency prevention programs. In a field where reported clear successes are few, highly innovative sounding proposals often tempt the judgment of planners in their funding decisions. It must be remembered, however, that a main purpose of comprehensive planning is to develop a well-coordinated prevention strategy to meet unique needs of a particular community. No matter how promising any specific proposal may sound, if it does not address the problems of the community or attempt to satisfy a goal of the community plan, then the proposal is not worthy of the community's scarce resources. Planners must establish a procedure for reviewing proposals in this light.

Evaluation

An important consideration for prevention planners is that the present knowledge about delinquency prevention does not allow the identification of any programmatic approach as correct. No delinquency prevention program, therefore, should unquestionably become a community institution. More importantly, the comprehensive planning effort itself must be dynamic in nature—always responsive to changes deemed necessary due to successes or failures. Each program and the total community plan must be subject to frequent assessments of their usefulness to current community needs.

The use of competent evaluation research is an excellent method for establishing accountability of prevention programs to some established measure of expected performance. Evaluation, however, should not be considered as a faultfinding process, a justification of program termination, or a justification of receipt of funds. The knowledge produced by evaluation is useful in upgrading the performance of programs already operating at acceptable levels. Moreover, any reports of successful programs or types of program operations can be helpful to planners in deciding upon the most strategic use of prevention dollars. Evaluation must be included as a normal component of program budgeting.

Standard 1.1

Developing a Comprehensive Delinquency Prevention Plan

A comprehensive delinquency prevention plan should be developed by an appropriate level of general purpose government. The comprehensive plan should include the following components:

1. A detailed analysis of the delinquency problem in the community;

2. An inventory of current programs and resources available for delinquency prevention;

3. A clear statement of institutional and agency responsibilities for delinquency prevention;

4. A mechanism for institutionalizing coordination of delinquency prevention programs and efforts; and

5. A planned strategy for reducing the incidence of delinquency through prevention.

Commentary

A comprehensive delinquency prevention plan provides an excellent mechanism for crystallizing a communitywide working consensus for successful prevention efforts. Planning can be a means of educating key community decisionmakers about the delinquency problem. It also provides a way for various community agencies to learn about one another as they discuss common problems and objectives.

Planning community prevention efforts demands that participants clarify their goals and set priorities for action. This often requires that group or agency conflicts be resolved before decisions are reached. The planning process itself underscores the seriousness of the delinquency problem and encourages community organizations and agencies to seek collective and imaginative solutions. Actual planning should involve all interested groups and agencies to insure support for prevention efforts and to promote necessary cooperation to operate successful programs.

The planning process should make use of the best available data. Clear and measurable objectives should be set, and the appropriate indices of performance defined. There should be a careful and extensive review of available delinquency prevention resources, alternative approaches, and different strategies of prevention. Comparisons of various programmatic options and their costs should also be included in the plan. The planning stage should result in a comprehensive delinquency prevention plan suited to the community's unique characteristics.

One product of the planning process should be a clear description of the delinquency problem in the community. Planners should construct a problem statement that describes the type of delinquent behavior occurring in the community and explaining which social values are threatened by specific kinds of delinquency. This statement should detail significant occurrences of delinquent behavior or important community events that brought greater public awareness to the delinquency problem. Included in the statement should be an assessment of the level of community awareness and information about delinquency in general, as well as the specific behaviors causing problems in the community. Finally, the problem statement should describe the dimensions of delinquent behavior in terms of the number of youngsters involved, geographic location, seriousness or intensity of the behaviors involved and important characteristics of the individuals or groups most affected by delinquency.

After stating priorities, the prevention plan should include a statement of the theory or theories on which the prevention strategies are based. Participants in the planning process should carefully review their underlying assumptions about relevant behavioral science theories that attempt to explain the causes of specific delinquent behaviors. The review of different causal explanations should suggest a range of possible intervention strategies, with an explanation of the rationale for choosing a preferred solution.

Delinquency prevention programs should be consistent with the social and cultural backgrounds of the people they are intended to affect. Attention must be given to economic, political and social factors that may help or hinder the total delinquency prevention effort. Therefore, participants in comprehensive delinquency prevention planning must take into account community values and should attempt to select programs that promise to have public support. The plan should also describe the steps necessary to build public support for specific programs.

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Related Standards

The following standards may be applicable in implementing Standard 1.1:

2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
7.2 Planning Commitment
18.5 The Leadership Role of the Family Court Judge
19.2 Creation of a State Agency for Juvenile Intake and Corrections
19.5 Specific Responsibilities
25.1 State and Local Responsibility for Planning and Evaluation
25.2 Adequate Operational Funds for Planning and Evaluation
25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation
25.4 Data Requirements
26.1 Analyze the Present Situation
26.2 Develop Goals
26.3 Developing Problem Statements
26.4 Program Development
26.5 Program Implementation

Standard 1.2

Collecting Delinquency Data

Every unit responsible for the construction of a comprehensive plan should develop a system for obtaining adequate data for delinquency prevention planning. Information sources should be continually evaluated and updated and new sources of data should be sought out and included in prevention planning.

Commentary

The current methods of data collection used by most criminal justice systems are generally inadequate for the task of delinquency prevention planning. Official statistics on delinquency reflect the numbers of youngsters who are formally processed by the juvenile justice system and often leave out the large number of youngsters who are informally handled, diverted, or whose delinquency escapes public reaction. Moreover, information collected by various community agencies is not widely shared. The net result of these inadequate data is that prevention strategists may seriously misjudge the extent of the community's delinquency problem. As a result programs may be built upon assumed facts that may not be true for the total delinquent population.

Most delinquency data are gathered for reasons other than prevention planning. This means that information crucial to prevention planners is often omitted or that the data are presented in a manner that makes them useless. Even where there are relatively good systems of juvenile justice system data, these sources of information are not collected together with other important prevention information such as school dropout rates, school nonattendance rates, youthful employment figures, and other community social indicators.

To build a proper base of information for delinquency prevention efforts, a data collection component should be established in an Office of Delinquency Prevention Planning such as that suggested in Standard 2.2 This data collection effort would not replace the data collection of the police or the court, but would augment and coordinate all information sources for prevention.

Staff should collect data on the numbers of children in the categories of delinquency, Families With Service Needs and endangered children. There should be information that estimates the numbers of youth who might fall into various target populations for primary, secondary and tertiary prevention programs. Data should also yield information about the various decision points of the juvenile justice system. A flow chart of the juvenile justice system should be created and base rates calculated for each major decision point in the flow of cases through the system. For example, there is a need for information about the arrest rates for various juvenile offenses and data about the numbers of youth who are diverted or who receive informal dispositions.

Planners should know the rate of juvenile detention and have up-to-date information about any overcrowding at detention facilities. Data collection should also include the rates of filing petitions and rates of adjudicated dispositions for different offense types and different groups of delinquents. Information should be collected about average lengths of institutionalized stays, as well as length of stay on probation and parole.

Data about offenses should include information on the time and place of occurrence, details of the offense, the numbers of persons involved and estimates of seriousness. Information about delinquents should contain information about age, sex, ethnic background and school status as well as other data pertinent to prevention planning.

Staff of the planning office should prepare assembled data for presentation to those involved in the prevention planning process and should publish periodic reports about the state of delinquency prevention in the community. These data should be used to educate community members about the problems of delinquency and the juvenile justice system through public forums or presentations to specific community groups.

Data should also be used to help set priorities among different prevention programs based upon an assessment of their potential impact on delinquency. A comprehensive system of data on delinquency will provide planners with useful information that enables them to keep the community prevention plan responsive to current community needs.

The data collection capacity described in Standard 1.2 also would serve as a community clearinghouse of information about delinquency prevention. Staff would be responsible for the wide dissemination of information about national and local trends in delinquency and on the results of delinquency prevention programs in other communities. Staff also would conduct literature reviews and evaluations of programs and provide this information to all those involved in community prevention planning.

The planning unit should include a research specialist who is trained in data collection and who can establish cooperative relationships with other agencies that collect data on delinquency. The research specialist should develop methods to translate the data collection process into an educational effort to improve general knowledge about the delinquency problem among various segments of the community. This research specialist should also be responsible for collecting official agency reports and data that portray the perceptions of community residents about delinquency.

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Related Standards

The following standards may be applicable in implementing Standard 1.2:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.3	Profiling the Nature of the Delinquency Problem
1.7	Evaluation
2.2	Office of Delinquency Prevention Planning
6.1	Participation in Community Planning Organizations
18.5	The Leadership Role of the Family Court Judge
25.4	Data Requirements
27.1	Setting Evaluation Goals and Developing an Evaluation Strategy
28.4	Computers in the Juvenile Justice System

Standard 1.3

Profiling the Nature of the Delinquency Problem

Every unit responsible for the construction of a comprehensive delinquency prevention plan should develop a more descriptive and accurate picture of the delinquency problems in the surrounding community. A more specific description of delinquent behavior should be used to reanalyze official statistics about delinquency to determine which children are being served and which children are not being served by current programs.

Commentary

Obtaining a clear and accurate understanding of the nature of the delinquency problem in any community is a complex task. This is so because delinquency is a complex behavior phenomenon. The task is further complicated by the fact that most data on delinquency take a number of diverse factors and collapse them into categories which are too broad to be useful.

It is simply not possible to engage in meaningful prevention planning with such a limited approach to problem definition. Communities need to determine the specific types of behavior that are of most concern to them.

There are at least three levels of complexity that must be taken into account in developing standard typologies to improve the quality of information generated about delinquency. At the outset, it should be recognized that the word delinquency is sometimes used to refer to acts that range in seriousness from truancy to murder. A first step in improving the quality of information is to define delinquent offenses in a way that allows a clearer picture of the nature of delinquent behavior.

One excellent offense-based typology is the Sellin-Wolfgang Index. This system converts police data to the behavioral categories of injury, theft, damage and behaviors not within a specific index category (e.g., status offenses, victimless crimes). Another approach is a system similar to the Crime Analysis, Project Evaluation, Research (CAPER) system that is used by law enforcement organizations in Santa Clara County, Calif. CAPER is basically a computerized method for gathering the facts of all reported crimes and storing them so that they can be easily recalled in many different forms. Each offense is boiled down to 33 descriptors that define the location, time, type of offense, discoverer, premise type, level of force used, type of entry, primary property target, value loss and victim/offender characteristics. These data can be easily recalled to provide an overall picture of crime and delinquency in a community, or the detailed picture of the characteristics of any specific crime.

Once delinquency is separated into more descriptive categories, it becomes possible to further analyze and determine how particular groups of offenses are treated by the juvenile justice system. It is also possible to discover the effectiveness of current community prevention resources for specific types of delinquency. Defining the delinquency problem more specifically also facilitates decisions about setting priorities in prevention programming.

A second level of complexity that planners must consider is the diversity in community characteristics, such as population density, economic levels, ethnic diversity, levels of community organization and levels of public resources that are available for prevention. Knowledge of such factors may be helpful to planners in deciding if programs used in other locations will be applicable to their community. For example, Neighborhood X may be a working-class, residential area with a relatively stable population, high levels of community organization and widespread resident concern about youth problems. Neighborhood Y may be a relatively prosperous, commuter community with low levels of organization and little interest in the delinquency problem. It is clear that the diversity of these two neighborhoods should be an important factor in choosing appropriate delinquency prevention strategies for each one. Typologies of communities should be constructed according to demographic and social variables that accurately describe local differences.

A third level of complexity in delinquency is the variety of the social and personality types among delinquent youth. Social background and personality typologies would be extremely helpful to planners in forming a basis for selecting prevention programs to fit individuals or specific groups of youngsters. At present, however, it does not appear that the state of the art in delinquent typologies is such that typologies constructed in this area can be of value in the planning process. More research, perhaps on a national scale, should be undertaken to enrich the data available on the social background and personality types of young offenders. It is crucial that this important aspect of successful prevention planning no longer be overlooked.

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Related Standards

The following standards may be applicable in implementing Standard 1.3:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.2	Collecting Delinquency Data
2.2	Office of Delinquency Prevention Planning
2.5	Organizational Capacity to Act
4.6	Participation in Policy Formulation Efforts
6.1	Participation in Community Planning Organizations
7.2	Planning Commitment
7.3	Evaluations Commitment
18.5	The Leadership Role of the Family Court Judge
19.5	Specific Responsibilities
25.1	State and Local Responsibility for Planning and Evaluation
25.4	Data Requirements
26.3	Developing Problem Statements

Standard 1.4

Clarifying Delinquency Prevention Goals

A statement of the goals to be achieved by a delinquency prevention effort should be formulated during the initial stages of a community's planning process. Determination of goals should be attempted only after participants in the planning process have a clear understanding of their assumptions about prevention. A self-assessment survey should be utilized for this purpose.

Commentary

People and organizations may have widely differing views on the subject of delinquency prevention. These differences may concern which behaviors should be considered as serious delinquency, the personal characteristics of delinquents, the causes of delinquency and the possible solutions to the delinquency problem. Since the planning process involves a cross section of the community there is a strong possibility that some participants will misinterpret the assumptions and motivations of others. It is important to understand these sources of conflict so that levels of compromise and collaboration can be sought. Knowledge of sincerely felt, though opposing, views can often form the basis of fruitful cooperation efforts.

Determining the goals of a prevention effort requires that community participants clarify their thinking about their values and about many aspects of the delinquency problem. Questions must be raised to determine why a particular type of delinquent behavior may be cause for community alarm and what values are threatened by different kinds of delinquent behavior. Too often disputes between participants in delinquency prevention efforts about the goals of prevention retard the process of effective delinquency prevention planning. There is a better chance of resolving difficult conflicts if all participants are made more aware of their own implicit assumptions about delinquency and of their assumptions of others' views.

A special effort should be undertaken to help participants in the planning process understand their own views on delinquency. A self-assessment survey technique offers a crude but simple manner of helping planners understand their own basic assumptions. The technique might also be used to develop information about community values. Planners can use the survey technique to compare their own values with those of other community groups and organizations, thus giving themselves a better grasp of which programmatic approaches are likely to meet resistance and which programs will have strong community support. (Note: A sample self-assessment survey can be obtained from the American Justice Institute.)

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Related Standards

The following standards may be applicable in implementing Standard 1.4:

2.2 Office of Delinquency Prevention Planning
2.5 Organizational Capacity to Act
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation Efforts
6.1 Participation in Community Planning Organizations
18.5 The Leadership Role of the Family Court Judge
19.5 Specific Responsibilities
26.1 Analyze the Present Situation
26.2 Develop Goals

Standard 1.5

Inventorying Community Resources

Participants in the prevention planning process should be aware of existing community resources that may contribute to a comprehensive delinquency prevention effort. When making decisions, planners should have at their disposal a resource book that summarizes the prevention functions of community institutions. The information compiled should be made available for easy dissemination.

Commentary

In each community there are a variety of public and private agencies having an impact upon the lives of children. Many of these agencies include delinquency prevention as one of their operational goals. It is rare, however, to find a central inventory or description of the different community institutional resources that are available for delinquency prevention. Without a clear description of available community prevention resources, there is a danger that programming will be fragmented and will duplicate services to clients.

A crucial planning function that should be performed by an Office of Delinquency Prevention Planning is the compilation and dissemination of information about community prevention resources. This data would greatly assist the planning process by pointing out existing programs and resources, as well as those that need to be developed. The product of the inventory could be published as a resource book that is distributed to all groups and agencies planning prevention programs.

The first step in information collection should be to identify all community groups and agencies that have a direct impact upon the lives of children and that are geared toward delinquency prevention. This preliminary inventory could form the basis of the statement of institutional and agency responsibility for delinquency prevention discussed in Standard 1.1. The listing of agencies should be sorted as to location, types of services provided, service delivery areas and intake criteria. For each agency program, there should be a brief description of the kinds of services provided and the nature of client groups. There should also be information about referral resources and descriptions of costs, if any.

Other information should include data about the levels and sources of funds for the various agencies and descriptions of their administrative structures. Agencies that receive funds from private sources should be noted. Too often, prevention programs only compete for a limited amount of public funds while available resources from the private sector go unused.

If possible, there should be a brief description of the staffs of various programs indicating whether they are made up of professionals, paraprofessionals, support staff or volunteers. Information should also be provided about facilities that might be available for prevention programming such as meeting rooms, playgrounds, classrooms or vehicles.

The resource inventory would also be of tremendous value to schools, juvenile justice agencies and other youth serving organizations that need information about available services to develop their referral networks. Moreover, the task of collecting information about a wide variety of community agencies is in itself a means to bring about greater cooperation and awareness of the need for coordination.

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Related Standards

The following standards may be applicable in implementing Standard 1.5:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.6 Integrating Individual Prevention Programs Into the Community Comprehensive Plan
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations
7.2 Planning Commitment
7.3 Evaluations Commitment
7.5 Planning Resource Allocation for Police Juvenile Operations
18.3 The Court's Relationship with Public and Private Social Service Agencies
25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation
27.1 Setting Evaluation Goals and Developing an Evaluation Strategy

Standard 1.6

Integrating Individual Prevention Programs Into the Community Comprehensive Plan

The merits of an individual agency's prevention program should be compared with the overall community plan. Planners should appraise a program in terms of the following criteria:

1. The purpose and policy assumptions of the program proposal;

2. The nature of the target population for which the program is intended;

3. The goals of the comprehensive community prevention plan that are satisfied by the program;

4. Alternative methods of accomplishing these goals; and

5. Information about the experiences and results of similar programs in other communities.

Commentary

Comprehensive community prevention planning should provide a basis for decisions about the allocation of delinquency prevention funds. This basis requires a definite method for reviewing and selecting potential delinquency prevention program proposals.

Program proposals should contain sufficient information to enable planners to differentiate proposals, using the criteria called for in this standard. Each community planning body should then decide on a scheme for assigning points, or some other measures of value, to each of these selection criteria.

Proposals should contain information about the purposes and policy assumptions of each program. These should be reviewed in relation to goals and positions set forth in the comprehensive plan. The proposals should provide a detailed description of prospective target populations for program services, to be compared with the priorities of target groups as stated in the plan. Programs must strive toward measurable outcome objectives. This does not mean that each program must clear some exact percentage reduction in the rate of delinquency, but there should be a statement of the anticipated number of clients to be served, the levels of service to be provided and cost data.

In appraising the merits of a particular proposal, prevention planners should consider possible alternative methods of accomplishing the stated goals. An Office of Delinquency Prevention Planning (infra Standard 2.2) should be able to provide the planning body with pertinent information about the experiences and results of similar programs in other communities. An additional factor to be considered is the potential impact of a specific program on other delinquency prevention efforts.

Planners should make available detailed explanations of the reasoning that led them to select a particular method over all other alternatives for implementing their objectives. Where there is no reliable data about the past success of a particular type of program that has been selected, the program should be clearly identified as experimental. This label should not automatically exclude programs, but there should be a way of determining what proportion of the community plan is purely experimental in nature.

Using the five major selection criteria of this standard enables community planners to make informed judgments about the relative merits of individual prevention programs. The procedure is intended to select programs that are sensitive to the total goals of the overall community plan, and that are responsive to the priorities established in the comprehensive delinquency plan. This method of proposal review also enables community planners to flesh out the details of putting their plans into operation.

Related Standards

The following standards may be applicable in implementing Standard 1.6:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.2 Office of Delinquency Prevention Planning
2.5 Organizational Capacity to Act
4.1 Police Policy as an Expression of Community Standards
4.4 Guidelines on Use of Police Discretion
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
6.3 Relationships With Youth Service Bureaus
6.5 Participation in Recreation Programs
7.2 Planning Commitment
18.1 The Court's Relationship With Law Enforcement Agencies
18.2 The Court's Relationship With Probation Services
18.3 The Court's Relationship With Public and Private Social Service Agencies
18.5 The Leadership Role of the Family Court Judge
25.1 State and Local Responsibility for Planning and Evaluation
25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation

Standard 1.7

Evaluation

All delinquency prevention programs should be carefully evaluated and the results should be used to refine and improve the community's comprehensive delinquency prevention plan.

Commentary

Evaluation is an integral component of the community delinquency prevention effort. Given the present state of the art, most programs will likely be experimental in nature and designed to provide more accurate data to improve subsequent programming. Evaluation establishes the criteria for measuring performance and provides useful data to upgrade the level of planning and program design.

Each prevention program should have a budget and plan for evaluation as a part of the program proposal. The preproposal stage is the most strategic time for planners to assist agencies and organizations to develop their evaluation components, rather than have such plans appended to projects as an afterthought. Research plans are sometimes used to serve a variety of agency goals other than that of reporting upon program effectiveness. If evaluation is to serve the delinquency prevention process, there must be a serious community commitment to learn from the results of previous research done on all prevention programs. Communities should insist that program funds be set aside for evaluation purposes.

Measuring the degree of program success in reaching prevention objectives is an important part of evaluation. This requires that the criteria for successful performance be agreed upon and stated by community planners. Excellent research methodology cannot make up for ambiguous or contradictory expectations about program objectives. The first role of the evaluator is to assist participants in defining their goals and making explicit the policy assumptions that guide the program. There should be agreement among all parties about which measures will be meaningful indicators of program effectiveness.

Evaluation research should yield valuable data about the process of implementing differing prevention strategies. This should include the adequacy of funding, staffing needs, organizational structure and necessary linkages with other community agencies. There should be a detailed chronology of program development as well as a description of the typical ways in which the program was operated. The evaluator should produce an empirical charting of the administrative structure of the program and the flow of clients through various program components. Independent measures of component effectiveness should be developed to assess strengths and weaknesses of program efforts.

There should also be a careful inquiry into interorganizational relationships that have helped or hindered program success. Evaluators should provide data about the effect of environmental conditions including political, economic and social factors on program performance. In some cases, the evaluation must provide all data needed to promote the maximum amount of learning from each expenditure of prevention and research funds.

Results of evaluation studies must be written to assist community individuals and groups to improve their planning process. These results should be disseminated to all interested groups and agencies, and money for dissemination should be part of the evaluation budget. Evaluation research results should be used to refine and augment the initial community planning process. The data should be used to develop successive approximations to the comprehensive delinquency prevention strategy. An Office of Delinquency Prevention Planning could collect and update evaluation data and provide periodic reports on the total impact of communitywide prevention efforts.

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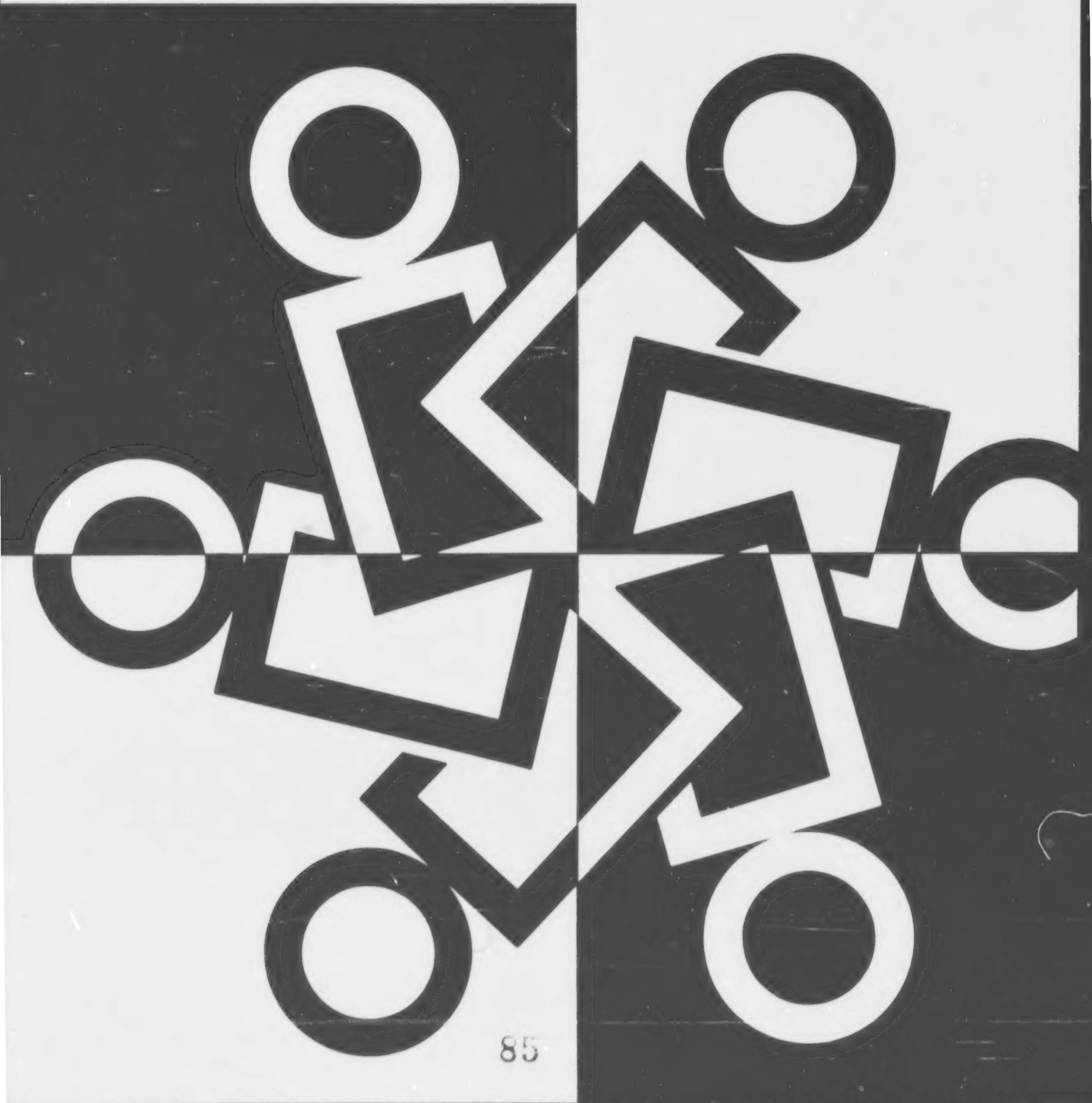
Related Standards

The following standards may be applicable in implementing Standard 1.7:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.2	Collecting Delinquency Data
2.2	Office of Delinquency Prevention Planning
2.3	The State's Role in Delinquency Prevention
7.2	Planning Commitment
7.3	Evaluations Commitment
18.5	The Leadership Role of the Family Court Judge
19.5	Specific Responsibilities
25.1	State and Local Responsibility for Planning and Evaluation
25.4	Data Requirements
27.3	Developing a Standardized Evaluation System
27.4	Developing an Evaluation Research Capability
28.2	Access to Juvenile Records

Chapter 2
Organization and Coordination of Delinquency Prevention Programs



INTRODUCTION

The theme of this chapter is that organizations (both public and private, government and nongovernmental) can be linked together in ways that build cooperative structures to facilitate action in the area of delinquency prevention. The task of organizing and coordinating delinquency prevention programs, however, requires a willingness to work one's way through a labyrinth of governmental jurisdictions, geography, local self-interests and individual prejudices. Operating under different rules and regulations, many agencies seriously interested in preventing delinquency cancel out one another's positive efforts. This is not due to malicious intent, but to lack of information resulting from the inadequacy of planning efforts and the limited nature of interagency communications. This chapter is intended to provide a framework in which coordinated, cooperative, and comprehensive delinquency prevention planning and programming can take place.

The Role of Local, State and Federal Governments

Geography, population, organization, culture, time, and space—these differences between specific communities will have an effect on the organizational structure through which delinquency prevention programs operate. The argument is made that both Federal and State governments are remote from the immediate scene in which youth are engaging in illegal behavior. Delinquency prevention programs organized at the Federal or State level, therefore, because of the above stated differences, are not likely to be responsive to the unique needs of a community. In the past, this lack of understanding of unique community problems has often served as a barrier to success.

Most authorities agree that problems of crime and delinquency can best be resolved at the local level through direct action by those who are closest to the behavior defined as unacceptable or illegal. Not only are local persons more aware of the specific nature of their delinquency problem, but they are also better able to predict the probable success of a particular program or strategy being considered for implementation. Organizing the operation of local direct service programs allows these assets of government and individuals to be best utilized. Local control over the operation of services, moreover, gives community residents a greater feeling that their input is likely to have an impact upon program operation, and thereby encourages community participation. Community participation is a key component in any comprehensive delinquency prevention effort.

In addition to being able to better assess the existing community conditions, problems and needs prior to the implementation of a delinquency prevention program, persons at the local level are in a much better position to be aware of changing community conditions that will have a substantial effect on delinquency prevention efforts. It is important to the delinquency prevention process that an organizational structure be created to monitor and interpret local knowledge for use in prevention. Delinquency prevention is a continuous process that requires an ongoing and permanent agency functioning to assure the current usefulness of a community's prevention programs. The standards that follow suggest the establishment of an Office of Delinquency Prevention Planning by local units of government. Such an office is intended to serve as the focal point of a community's comprehensive delinquency prevention efforts.

Although it is true that the Federal and State governments are remote from the actual delinquent activity, it is also true that these two levels of government have available a great amount of resources for programs to prevent delinquency. It is through the interlinking of Federal, State, and local resources, in the form of money, people, and ideas that delinquency problems may ultimately be resolved.

Neither the Federal nor State governments, however, should take the primary role of providing direct services for delinquency prevention purposes. It is the role of the community to plan and operate those programs. The role for State and Federal Government is to facilitate, to support, and to offer leadership and general guidance to the localities.

Large-scale policy shifts, enforcement of Federal and/or State legal guarantees, and strengthening the capacity of local governments are probably the most effective Federal and State roles than can be undertaken in the area of delinquency prevention. Both the Federal and State governments should take on the role of setting objectives that local units of government can study and adopt if they are appropriate in resolving local problems. Both the Federal and State governments should limit their advocacy of specific solutions or methods for attaining the objectives which have been set. As an example, the Juvenile Justice and Delinquency Prevention Act of 1974 specifies that the State Planning Agency shall be the agency to administer the act. An alternative solution would have been to propose that the executive branch of the State select the most appropriate State agency to administer the program. The designation of the State Planning Agency as the sole administering agency has a series of rippling effects on any organizational structure adopted to carry out the specific Federal act. In many instances, the goal of coordination is lost when the prescription for coordination is the establishment of a duplicate or alternative organizational structure that makes cooperation and planning more complex and difficult.

The State's role in delinquency prevention should include providing assistance in financial, training, and technical areas to facilitate local youth services. Other important functions of the State are to strengthen interdepartmental coordination, to systematically review recommendations and standards produced by the Federal Government that affect children and youth, and to insure youth involvement in programs related to delinquency prevention.

Standard 2.2 of this chapter advocates a single State agency for children and youth that would have statewide responsibility for developing comprehensive prevention services. Such an agency might be a logical recipient of Federal funds specifically earmarked for delinquency prevention. The organization of statewide prevention efforts under a single State agency provides the following benefits:

1. Accountability for a single unified service;
2. Planning in the area of financial resources;
3. Ability to insure that resources serve the most needy populations;
4. Development of uniform services where needed;
5. Capacity for both research and evaluation, possibly lacking at the local level;
6. Greater capacity for coordination in insuring a continuity of services;
7. Increased opportunities for staff in the area of promotions, pay, training, recruitment, etc.; and
8. Greater statewide consciousness of the needs of children and youth.

The Federal Government, like the State governments, must build the delinquency prevention capacity of localities through the provision of financial resources and technical expertise. In addition, the Federal Government must play a major role in providing guidance to the States and localities in delinquency prevention. The Federal Government has a nationwide perspective that allows it to be most informed on the successes and failures in prevention programming as they occur around the Nation. Without Federal assistance, the dissemination of this useful information would be problematic. The Federal Government should make the States more aware of this information, and should also translate it into standardized procedures that States and localities may use as guidelines. Few localities or States, moreover, have the capacity to carry out the research necessary to adequately test the theories of delinquency causation or the prevention philosophies under which a program may be operating. The Federal Government must take a leadership role in theory testing and should heavily support evaluation at every level of delinquency prevention operation. The essence of the Federal role is performing those services that only it can do more efficiently because of its broader national scope and purpose.

Organizational Capacity to Act

One of the most difficult problems for anyone organizing to reduce delinquency is to determine who the participants shall be. For example, neighborhood groups are relevant primarily in their ability to identify specific problems that are unique to their areas. The same is true of a city to a great extent. In both cases, the city government or the neighborhood group can describe where and how they hurt and make suggestions regarding measures appropriate to relieve the problem. However, the capacity to act and to fund human services in almost every case generally requires participation of a higher government level. Organizing or creating a structure for action requires that the community skill of problem identification be integrated with or related to other governmental and nongovernmental agencies that have the resources to address some of the local problems.

Scouting, YMCA's and YWCA's, church clubs, boys' and girls' clubs, Little Leagues, business sponsored employment programs, and recreational activities are all major programs for youth in the private sector. Private agencies, organizations, and groups provide more direct services to children and youth than do most public agencies, yet they are seldom included, except as an adjunct, by those wishing to organize for prevention. These groups are often excluded from local efforts to reduce delinquency. In part, this situation is owing to the nature of funding patterns that flow from public agency to public agency and from higher levels of government to lower levels of government within a circumscribed and closed system. The exclusion of private agencies from delinquency prevention efforts often bars the participation of the groups who provide services that allow them to be most in tune with the neighborhoods and the individuals they serve.

In the past, it has been rare that organizational structures have existed in which representatives of the various levels of government, public and private agencies, and the citizen level could interact to form a plan of action for delinquency prevention with the necessary support. Most often, each delinquency prevention program is planned and operated by a single agency. While some agencies have been successful in gaining outside support for their programs, such support is usually unsystematically solicited without inclusion of many key individuals and groups vital to program success.

Comprehensive delinquency prevention requires the collective commitment and active participation of the groups and individuals that have a capacity to provide people, money and support. These groups and individuals should be involved from the planning stage onward. Standard 2.5 of this chapter calls for the establishment of coordinating bodies, such as interagency councils or intergovernmental standing committees. Through mechanisms such as these, essential participants can reach common understandings of problems and solutions, and can build a capacity for action in delinquency prevention.

Achieving Coordination and Cooperation in Delinquency Prevention Programs

The process of planning, organizing, and coordinating delinquency prevention programs needs major improvement in the areas of:

1. Citizen involvement;
2. Systems integration and cooperation;
3. Intrasystem communication.

The agent or agencies responsible for the development of a delinquency prevention organization must establish and maintain orderly communication with all aspects of the community, political representatives, and users of the human services themselves. The responsible agency must also develop ongoing communications with all tiers of government: city, county, State, and Federal. In the overall design, each level of government needs its own communicative network with the body politic. The need for community involvement and participation cannot be overstressed. Without such involvement and development of shared community values, the likelihood of a successful outcome is small.

In addition to communicating, each individual and organization involved in delinquency prevention must become aware of its relationship with others involved in the same process. No one agency can, on its own, prevent delinquency. Out of the tendency to protect self-interests, however, efforts to organize delinquency prevention frequently result in the development of new mechanisms and organizations that parallel existing ones. Rather than turning to an existing agency or organization, a new entity is created in an effort to maintain more direct control over a program being implemented. It is this tendency toward proliferation that confuses citizens and contributes to their frustration with bureaucracies and the associated red tape. In addition, duplication of efforts exhausts limited resources more rapidly than necessary. For these reasons, it is mandatory that any program develop coordinated methods of planning, implementation, and evaluation if it is to be effective. If the needs of children and youth are to be met, the systems dealing with these young people must recognize the interrelatedness of each program with all the others.

Youth Involvement

Youth are undependable, irresponsible, impatient, lazy, pleasure-seeking, idealistic, shortsighted, uninformed, intolerant, unstable, and naive. Adults are materialistic, manipulative, restrictive, exploitative, belligerent, unfeeling, unconcerned, rigid, controlling, authoritarian, chauvinistic, patronizing, insensitive, unreasonable, demanding, and hypocritical.

Such stereotypes create conflict between youth systems planners and youth consumers and between the values of the Nation's young people and those of its adults. The solution to such conflict lies in more honesty between the different groups working cooperatively in new youth and adult alliances to reduce delinquency.

Many positive opportunities are possible for increasing the participation of young people, ranging from one-to-one advocacy programs to the development of State and national legislation. With sufficient training, young people have the ability to participate at all levels of prevention planning and operations.

The involvement of youth may not be easy. They bring a different perspective to problem analysis and, frequently, their solutions to problems are unrestricted by the more traditional ways of doing business. However, it is this freshness of outlook and outspokenness of purpose that makes youth's contribution valuable. No delinquency prevention effort can succeed unless the objectives of the project become the purpose of those who are to be affected by the project. In this sense, youth must be full participants in planning and operating prevention programs affecting their lives.

Financing and Resource Allocation for Delinquency Prevention Programs

The concept of delinquency prevention has gained almost universal vocal support. Delinquency prevention programs, however, have often not fared well in competition for the limited available resources. Many specific programs have not been funded at a level which made it possible for the program to be adequately tested (for instance, the Mobilization for Youth project in New York City). Far more common, however, is the case of a promising program that has had its funds withdrawn or drastically reduced before the entire program has been fully implemented and sufficiently evaluated.

Many funding problems have resulted from the lack of any clear agency responsibility for delinquency prevention. Most prevention programming does not hold much promise for quick and positive results. Agency officials, without a specific mandate for such action, have been reluctant to allocate substantial amounts of their own limited resources for programs with uncertain outcomes. Moreover, many agencies, who have reportedly expended funds for delinquency prevention, have invested in programs with a questionable relationship to delinquency prevention. The pattern of Federal expenditures is illustrative of this process.

Traditionally, the Federal Government has been a supporter and provider of funds for the prevention of juvenile delinquency. The Federal Government has been spending money for preventing juvenile delinquency for three quarters of a century. Unfortunately, like many local efforts, Federal programs have not been clearly defined, causing a spillover into a variety of programs that are indirectly related to delinquent behavior or its prevention. Various estimates place the amount of Federal money spent on juvenile delinquency prevention in fiscal year 1975 somewhere between $92 million and $206 billion. There are two explanations for the huge discrepancies in reported Federal prevention spending. First, not all prevention programs are specifically designed to treat delinquents. Prevention has been thought to include a varied and large number of human services to youth and a number of activities classified as systems improvements. Many of these services and improvements in the justice system are not specifically directed at a delinquent subgroup and in some cases are not specifically youth oriented. Whether or not a program fits into the delinquency prevention category is open to broad interpretation. This factor makes it difficult to compare appropriate program level budget totals.

The second source of uncertainty is a matter of poor reporting. Such factors make it difficult to assess the amount of funds currently being spent on delinquency prevention, let alone attempt any overall cost benefit analysis. This has led to delinquency prevention being a lower priority funding item, especially at the State and local levels.

Standard 2.8 advocates specific legislation and policy action at the State and local levels to insure a continuous flow of funding for delinquency prevention purposes. In addition, State and local governments should establish agency mechanisms that are responsible for the administration of funds earmarked for prevention. These agencies should establish clear guidelines for the allocation of prevention funds and provide clear statements on the expected results of each allotment.

To counteract the remoteness of the Federal Government, new Federal funding policies are currently being advocated. These policies encompass the redirection of resources to State and local governments that are closer to the people and assumed better able to ascertain needs and plan for them. The intent of the new federalism is to give State and local governments an increased flexibility to meet local needs. These policies should be especially encouraged in delinquency prevention funding.

Standard 2.1

The Local Role in Delinquency Prevention

Localities should be responsible for the operation of direct service programs for delinquency prevention. This responsibility should include identifying local needs and resources, developing programs to resolve the needs, and delivering the services needed.

Commentary

Each community is unique. It differs from all others because of its singular historical development and its political, economic and social characteristics. An effective delinquency prevention program must reflect this uniqueness. From community to community, planning should reflect the following factors:

1. **Geographic Factors.** Differences in the availability of land, cost characteristics, population distribution, natural resources and climate.

2. **Human Factors.** Differences in ethnic groupings, age characteristics, local mores, transient mobility, increasing or decreasing population rates.

3. **Organizational Factors.** Differences in political systems, institutional design, coordinating mechanisms, assignment of organizational responsibilities, citizen participation and problem solving methods.

4. **Cultural Factors.** Differences in historical paths, cultural development, communicative skills, cultural symbolism and cultural ages.

5. **Time Space Factors.** Differences in progress along an evolutionary time frame, resulting in differences in attitudes and lifestyles.

These five factors interact in complex ways to produce what one might describe as the locale's gestalt—a condition or feeling that is unlike any other. Any system desiring to improve the responsiveness of its service must consider these factors.

Arguments for local control of delinquency prevention programs relate to the following elements:

1. A feeling of ownership and smallness, hence, closeness to the project at hand;
2. Direct accountability by those who support programs and who are involved in the program;
3. An increased understanding and capacity at the local level for people to communicate through personal relationships;
4. Legislative competence borne out of personal awareness and firsthand knowledge of local conditions;
5. Knowledge about the community and its resources, providing an opportunity for policy input by local citizens; and
6. The maintenance of a personal atmosphere in which local residents and citizens can become personally involved in major public undertakings.

Clearly, the role of the local community is to determine what the problems are, to suggest possible solutions, to operate specific programs, and to provide feedback on the success or failure of programmatic approaches. A model for the coordination and planning of local level services has been provided in the first chapter of the Prevention Section. The State's role is to assist in determining broad goals and objectives and to provide the financial assistance, training and technical capacity to local agencies. Specifically, the State's role is to facilitate, while the community or local role is to operate.

In the end, the interests of prevention are best served by cooperative planning rather than the multiplication of self serving, resource devouring, independent projects that have little impact on the problem of delinquency. These services can be further enhanced if they are integrated into a comprehensive and formal structure such as the Office of Delinquency Prevention Planning proposed in Standard 2.2 of the Prevention section.

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Related Standards

The following standards may be applicable in implementing Standard 2.1:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.6 Integrating Individual Prevention Programs Into the Community Comprehensive Plan
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation Efforts
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
6.3 Relationships With Youth Service Bureaus
6.4 Police-School Liaison
6.5 Participation in Recreation Programs
18.5 The Leadership Role of the Family Court Judge
19.3 Provision for Services
25.1 State and Local Responsibility for Planning and Evaluation
25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation

Standard 2.2

Office of Delinquency Prevention Planning

An Office of Delinquency Prevention Planning should be established within appropriate units of local general purpose government. This office should be responsible for coordination of local prevention efforts on an ongoing and permanent basis.

Commentary

Comprehensive delinquency prevention planning should be a continuous process and not just an annual requirement. Such a process means a permanent delinquency prevention planning agency. Communities should create an Office of Delinquency Prevention Planning located within an appropriate unit of local government. Most cities should have their own planning offices, but regional centers should be established where warranted by population conditions.

The constitution of the planning office should contain a clear and specific statement of agency responsibilities. The statement should also detail the powers and the duties that will be assigned to the agency. The specifics of the statement will, of course, depend greatly upon local requirements. However, the planning unit should be designed to be capable of responding to the specific needs of the particular community, city or region in question and should be organized in a manner that enables the office to maintain a broad perspective about community resources and programming.

Prevention office staff should reflect the best available professional talents. They should be able to offer technical assistance and provide useful information to all participants in the planning process. The success of the prevention effort, however, depends upon the ability of various segments of the community to come together to develop specific programs and resources. Therefore, staff members should act not only as professional planners but also as facilitators and coordinators of community prevention efforts. It is crucial that the process involve community groups and agencies ultimately responsible for implementing the plans.

The central delinquency prevention planning unit should assist individual groups and organizations who are preparing program proposals. They might offer training efforts in program development and proposal writing. Bidder's conferences should be organized to disseminate information about the intent and objectives of the community plan. These conferences would help community groups and organizations improve their program descriptions and statements of program methodology. The planning staff could also develop and distribute model proposals and assist interested parties in writing effective Requests for Proposals.

Related Standards

The following standards may be applicable in implementing Standard 2.2:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation Efforts
19.3 Provision for Services
25.1 State and Local Responsibility for Planning and Evaluation
25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation
26.1 Analyze the Present Situation
26.3 Developing Problem Statements

Standard 2.3

The State's Role in Delinquency Prevention

States should create a single agency to coordinate delinquency prevention programs. The role of the State agency should include the following:

1. Coordination of services to children and youth on a statewide basis;

2. Encouragement of the development of relevant services in localities;

3. Emphasis on and financial support for the prevention of delinquency and diversion from the justice system;

4. Administration and granting of subsidy funds for all youth service agencies, along with the establishment of standards for both quality and quantity of services offered;

5. Encouragement and arrangement of training programs that would include training for volunteers, paraprofessionals, and anyone connected with the services being offered to children and youth;

6. Advocacy on behalf of the well-being of children and youth; and

7. Leadership in a statewide strategy and plan for delinquency prevention.

Where a statewide juvenile services department exists, and it is to perform the function required by this standard, the department should also be authorized to provide direct services to children and youth.

Commentary

The stresses and complexities of our society make it difficult for the traditional advocate for children, the parent, to be heard. Moreover, no single agency in the community or at the State level presently speaks for the total child or for all youth. As a result, efforts to help the young are fragmented among many agencies with differing philosophies, organizational structures and financial bases. There is little coordination and no plan for developing services.

To effectively prevent delinquency, there must be a single State agency to plan, facilitate and coordinate all prevention services for youth. This agency must be charged with the responsibility of serving as an advocate for youth interests. In some areas, demographic conditions may make operation of certain prevention services impractical. In such cases the State agency should provide for direct services through existing community-based facilities. The agency should not be the main or single provider of direct services to the young. Its primary agency responsibility should be to set standards for services and provide the necessary funds, personnel and expertise for care and assistance through contracts or through subsidies. Its comprehensive nature would place it in a better competitive position to secure a fair share of the tax dollar. The very existence of a single agency reminds the community and the legislature of the presence of special youth problems, and maintains a favorable bias on behalf of children and youth. Finally, a single State agency can be identified as a unit of service that is visible and real, and so it can be held accountable.

In some States the roles assigned to the State agency may have already been delegated to an existing agency. But in most States creating a new agency for children and youth would require legislative action. In both cases, however, the agency head should be directly accountable to the chief executive of the State or his designated deputy.

The State agency should be empowered to integrate all youth services. It should accomplish its purpose through a network of coordinating structural and contractual arrangements that insure adequate delivery of services to children and youth. These services would be controlled through standardization of quality of service and standards that define funding or contracting relationships. Strategies for implementing services might include provision of some direct services such as employment counseling but also would include political-legal-administrative action, such as revising educational codes to provide greater oportunities for those suffering educational or learning disabilities. The State agency would also engage in social or institutional change efforts, such as developing a comprehensive system for shelter care for children and youth currently held in detention facilities. The agency should promote the full utilization of technology to improve and change the nature of many contemporary social service programs at the local level.

The proposed agency must coordinate existing resources in behalf of children and youth. To do this effectively, the new organization must have the power to bring together various independent groups or organizations for the accomplishment of specific, agreed-upon objectives. It should have the power of budget review, with the corresponding ability to receive and dispense funds. It should also be responsible for the approval of yearly operational plans of State youth services, financial assistance to units of local government engaged in prevention activities, standard setting for State and local programs and program monitoring of all State level services offered to youth.

The proposed State agency for children and youth should encourage program development and improvements in services, through administrative controls and a strong program of financial and technical assistance. It should assure that adequate research and evaluation capability is available to all components and allied agencies involved in providing services to children and youth. The agency should provide consultation and training to units of government, citizens, and private and public youth components. The agency should maintain a flexible organizational structure that permits it to move with the times. An independent State department offers the optimum operating conditions, providing the State program is large enough to make this feasible and that the State's regional tradition, precedence, existing political climate, and power structure will tolerate such a placement.

References

1. "A Statewide Program for Children and Youth Services," a paper prepared by the Department of the California Youth Authority, 714 P Street, Sacramento, Calif. 95814, June 1, 1972.

2. Gross, Bertram. *Organizations and Their Managing.* The Free Press of Glencoe, Ill., 1968, pp. vii–viii.

3. Johnson, Kast, and Rosensweig. *The Theory of Management of Systems.* New York: McGraw-Hill, 1963.

4. Journal of the American Academy of Arts and Sciences. Youth: Change and Challenge. Winter 1972.

5. NCCJPA Juvenile Guidelines, developed by University of Illinois and LEAA.

Related Standards

The following standards may be applicable in implementing Standard 2.3:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.4 The Federal Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.9 Resource Allocation
8.2 Family Court Structure
25.1 State and Local Responsibility for Planning and Evaluation
25.2 Adequate Operational Funds for Planning and Evaluation
27.1 Setting Evaluation Goals and Developing an Evaluation Strategy
28.3 Children's Privacy Committee

Standard 2.4

The Federal Role in Delinquency Prevention

The role of the Federal Government in assisting local and State delinquency prevention efforts should be to:

1. Identify needs and problems;

2. Recommend standards related to meeting those needs and problems;

3. Support research and evaluation designed to expand the base of knowledge about delinquency and methods for its prevention; and

4. Provide resources, technical assistance, and consultation for prevention programs.

Commentary

The basic position of the President's Commission on Law Enforcement and Administration of Justice of 1967 and of the National Advisory Commission on Criminal Justice Standards and Goals reports of 1973 was that crime and delinquency are local problems and that the most appropriate solutions are arrived at locally. Most authorities are in agreement with that position. The definition of the delinquency problem, the assessment of possible solutions and the cataloging of possible resources for resolving the problem are all functions that appropriately fall to a local government or community. The Federal Government is divorced from the immediate scene in which youth are engaging in illegal behavior and therefore should not attempt to solve delinquency problems by providing services directly.

There are, however, certain delinquency prevention functions that are best carried out by the Federal Government. These functions include the providing of resources under some form of general guidelines and constraints, the providing of technical assistance and consultation, research, and evaluation. However, the Federal Government's authority to influence program policy should be limited to establishing national priorities and concerns, and using governmental institutions to communicate these priorities and concerns.

Federal Government standards and guidelines should be limited to those constraints that are necessary to achieve the stated national goal or priority. Decisionmaking, wherever possible, should be delegated to the States and local authorities. For example, the Federal Government might set as its goal a 20 percent reduction in delinquency associated with violence and offenses against the elderly. Funds would only be appropriated for programs that addressed these goals. But the program prescriptions—how to achieve these goals—would be left to the State and/or local units of government operating the programs.

Federal technical assistance should involve the collection and dissemination of information about ideas and theories, successful programs and improved methods of program development and administration. The Federal Government has a perspective that is 50 States wide. This scope permits it to collect and disseminate knowledge and information that would otherwise be lost because of unorganized and erratic flow of State-county or State-region information. The technical assistance should be provided by:

1. Developing a national cadre of experts in various program areas and making the experts available without cost to local governments;
2. Providing specialized training opportunities where knowledge, information, skills and techniques are shared;
3. Using the latest technology to collect and feedback information on theories, ideas and programs; and
4. Providing various written publications that will keep practitioners aware of new knowledge in the field as it develops.

Of the many roles filled by the Federal Government, supporting research and evaluation is one of the most critical. Too often evaluation in delinquency prevention has proceeded according to whim. Funding support for research and evaluation has been limited and of short duration. If programs are to be based on theory and knowledge that has been tested, then the Federal Government must insist that a significant proportion of all delinquency prevention funds be committed to basic research. The process for Federal research should include an independent review of the research proposal, using panels of delinquency researchers and juvenile justice practitioners similar to that conducted by the National Science Foundation. Regional centers of research should be created and staffed by academicians and practitioners. Technical assistance and consultation should be offered to local units of government wanting to develop research capacities, and there should be methods and procedures for training and dissemination of information through these federally funded regional research centers.

The Federal Government must concern itself less with the direct provision of services and more with the development of institutions to provide the services through State and local government. The key to the proposal for the Federal role outlined by this standard is an increased effort to help States and localities to improve their capacity to plan and manage the social services appropriate for reducing crime and delinquency.

References

1. "A Program Management System for Youth Development. Implications for the Human Services." Prepared by the Youth Development Program, University of Colorado, with the Office of Youth Development, U.S. Department of Health, Education, and Welfare, November 1974.

2. "Capacity Building." Article prepared by the Bureau of Sociological Research, University of Colorado.

3. First Annual Report: Office of Juvenile Justice and Delinquency Prevention, Volume 1, Sept. 30, 1975, LEAA, U.S. Department of Justice.

4. Green, Wade. "Youth's Agenda for the 70's: A Report on the White House Conference on Youth with a Summary of the Recommendations." The J.D.R. III Fund, New York, 1971.

5. Murray, Charles A., and Bourgue, Blair B. *Budget Priorities and Trends in the Federal Effort to Combat Juvenile Delinquency*, submitted to: Office of Juvenile Justice and Delinquency Prevention, LEAA, Department of Justice, by American Institutes for Research, September 1975.

6. "National Strategy for Youth Development and Delinquency Prevention." Washington: U.S. Department of Health, Education, and Welfare, Delinquency Prevention Reporter, March 1971.

7. Report to the Congress: How Federal Efforts to Coordinate Programs to Mitigate Juvenile Delinquency Proved Ineffective, Department of Justice, Department of Health, Education, and Welfare, by the Comptroller General of the United States, Apr. 21, 1975.

8. *Youth Work Experience Process: Capacity Building for Youth Programs.* Published by the National Office for Social Responsibility, under contract to the U.S. Department of Labor, Manpower Adm., Vol. 3.

Related Standards

The following standards may be applicable in implementing Standard 2.4:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.9 Resource Allocation
25.1 State and Local Responsibilty for Planning and Evaluation
25.2 Adequate Operational Funds for Planning and Evaluation
28.3 Children's Privacy Committee
28.4 Computers in the Juvenile Justice System

Standard 2.5

Organizational Capacity to Act

States and local units of government should establish delinquency prevention coordinating bodies, such as interagency councils or intergovernmental standing committees, with the capacity to provide people, money and support for delinquency prevention. This capacity should be derived through the active participation of persons who serve on these bodies and represent general purpose government, statutory agencies, the private sector, citizen representatives of the community to be served, policy advisory groups, and technical support units.

Commentary

There are a number of government levels, agencies, and community groups that should be involved in coping with delinquency. Each of these groups has an important stake in the prevention effort and each holds resources, legal authority, expertise, or political power necessary to support effective programming in the delinquency area. Unfortunately, a mechanism is rarely provided for all the essential participants in successful prevention efforts to unite in a systematic fashion for a comprehensive approach to delinquency prevention.

Capacity for action in any delinquency effort can be expected only after the parties exercising control over necessary resources have come to some agreement about plans of action. Advisory roles in themselves are not sufficient. Representation by private agencies should include the right to decide and act with the same authority as the public sector. Capacity to act requires that all of the significant players are involved in a meaningful way. This includes the private agencies and the private sector of our communities. There is a need for coordinating bodies whose sole purpose is to enhance this process.

The first ingredient for building a capacity to act in delinquency prevention, however, is the inclusion of representatives of general purpose government on coordinating bodies. It is difficult to create or sustain programs for delinquency prevention without the involvement of elected officials and local government. Assuming that current trends continue, the responsibility of local elected officials for social policy and resource allocation will increase. Organizations seeking funds will have to obtain them from city councils, county commissioners or State legislatures. Accounting for programs undertaken will be made to general purpose government and to the electorate.

A second major group that should be included in coordinated planning and program activities are persons from the public agencies through which the vast majority of youth service funds flow. Each of these agencies has some planning capacity to analyze and evaluate needs, priorities, and programs; but little joint planning has actually occurred.

One of the major problems inherent in building an interagency collaborative effort is that the policymaking authority frequently resides at different governmental levels or with different agencies. Lack of a single authority to which all agencies are accountable means that no one in the community can oversee coordination. Therefore, building a coordinated, integrated service delivery system is a voluntary activity on the part of any agency.

Because of fiscal pressures, local agencies appear to be increasingly willing to cooperate and to subordinate their traditional independence by entering into agreements with policymaking interagency boards. Interagency bodies, in turn, support the budgetary requests of specific member agencies that are submitted to various higher levels of government.

Differences in authority and policymaking among agencies should be handled by the creation of formal and informal agreements signed by mayors, county commissioners, or Governors, in which they agree to perform in a particular way to coordinate and integrate planning and policy decisions by interagency boards.

The private sector is a third component of coordinative programming that should be included to provide input and resources for youth development and delinquency prevention efforts in the community. Religious groups and United Fund agencies raise money to recruit volunteers and to conduct a majority of youth programs and support services. Business, industry and labor unions donate dollars and encourage volunteerism, and influence the community's social policies on youth as voters and representatives of advisory boards.

Representatives of business, industry and labor should be included in cooperative delinquency prevention efforts because they are a part of the community economy that influences youth employment opportunities. The importance of such employment in a delinquency prevention effort suggests that business groups be involved even though they have no statutory responsibilities.

Citizen representation is the fourth prerequisite to successful community action. Until and unless the citizens who represent the community to be served help set the goals and objects of prevention programs, these programs cannot succeed. Those who are to be served must be a part of the decisionmaking processes if organizations are to have the moral authority to act on behalf of the citizens affected.

Policy advisory groups exist in almost all communities. They may be composed of appointed citizens or a combination of citizen governmental representatives who sit together jointly to make governmental decisions. Federal legislation invariably requires the presence of client populations on advisory boards. Such groups serve as a barometer of public opinion for elected officials and, as such, they can play a critical role in strengthening the capacity for youth development and delinquency prevention activities.

Finally, within every community there are technical support units that do research, plan and evaluate programs, prepare budgets and advise agency policymakers. These personnel are seldom encouraged to provide or work with technicians and other agencies in joint efforts. Such information as they may offer to policy advisory groups can seldom be integrated with data from other agencies to provide a comprehensive view of the problems, or the impact of programs in solving problems. The crux of capacity building for interagency bodies that plan and coordinate delinquency prevention efforts may well be the creation of mechanisms that allow their specific expertise and knowledge to be shared with others.

References

1. "A Program Management System for Youth Development: Implications for the Human Services." Prepared by the Youth Development Program, University of Colorado, with the Office of Youth Development, U.S. Department of Health, Education, and Welfare, November 1974.

2. "A Statewide Program for Children and Youth Services," a paper prepared by the Department of the California Youth Authority, Sacramento, Calif., June 1, 1972.

3. "Capacity Building." Article prepared by the Bureau of Sociological Research, University of Colorado.

4. Havelock, Ronald G. *Planning for Innovation Through Dissemination and Utilization of Knowledge*. Ann Arbor: University of Michigan Institute for Social Research, Center for Research on Utilization of Scientific Knowledge, 1971.

5. "Information Needs and Plans to Meet Them," prepared by American Institutes for Research for Office of Juvenile Justice and Delinquency Prevention.

6. Johnson, Kast, & Rosenweig. *The Theory and Management of Systems*. New York: McGraw-Hill, 1963.

7. Muhich, Donald F., M.D., "Human Services Systems," chapter prepared in October 1972 for the Law Enforcement Assistance Administration, National Advisory Commission on Criminal Justice

Standards and Goals, Community Crime Prevention Task Force, by the Youth Involvement Program, Children's Hospital of Los Angeles.

8. *Recommendations for Action*, prepared for the U.S. Department of Justice by the Panels of the National Conference on the Prevention and Control of Delinquency, Washington, D.C.: Government Printing Office, 1941, p. 81.

9. Report to the Congress: How Federal Efforts to Coordinate Programs to Mitigate Juvenile Delinquency Proved Ineffective, Department of Justice, Department of Health, Education, and Welfare by the Comptroller General of the United States, Apr. 2, 1975.

Related Standards

The following standards may be applicable in implementing Standard 2.5:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
2.7 Youth Participation
2.8 Financing Delinquency Prevention Programs
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation Efforts
7.2 Planning Commitment
18.5 The Leadership Role of the Family Court Judge
19.5 Specific Responsibilities
25.1 State and Local Responsibility for Planning and Evaluation

Standard 2.6

Achieving Coordination and Cooperation of Delinquency Prevention Programs

All agencies affecting youth in any community should cooperate and coordinate with others in the delivery of services to insure that each agency:

1. Clarifies its interdependent relationship with others;

2. Standardizes its exchanges of communication;

3. Has a complete description of the volume and frequency of linkages and exchanges with other agencies; and

4. Is aware of which of its goals are competitive with those of other organizations and which are facilitative.

Commentary

Persons brought together to advise or cooperate should be selected on the basis of the capabilities they have to provide services or resources to achieve agreed upon delinquency prevention goals. Effective preventive coordination requires work with existing agency structures having policy control over funds being spent on behalf of children and youth. There should be interagency coordination bodies created at both the State and local levels among departments serving children and youth. These bodies should interface with other coordinating groups, such as State advisory councils or State Planning Agencies. Local juvenile justice or delinquency prevention committees, juvenile justice officials, and representatives of private agencies should conduct regularly scheduled meetings with fixed agendas. Such meetings should be open to citizen participation.

To clarify their interdependence with others, agency staffs should have the opportunity to participate in free discussions about the goals and objectives of their operation. The exchange of information must be on a planned basis and provided in an environment that is nonthreatening to any of the participants. Examples of situations that promote this type of discussion would include training seminars, regional meetings of appropriate staffs or groups, periodicals or newsletters designed to serve the needs of various agencies or groups and special issue study groups or task forces made up of staffs from different agencies. Agency staff members who engage in cooperative projects learn which of their agency goals are competitive and which are facilitative to the goals of other youth serving agencies.

In order to standardize communications between organizations, it is necessary to pair equivalent levels of personnel from one agency with that of another. Agencies must clarify which of their personnel have the authority to set policy in nonroutine situations. There also must be a structured plan among agencies for sharing data, statistics, policy statements and other relevant information.

To insure there is an accurate description of the volume and frequency of linkages and exchanges with other youth servicing agencies, a given agency should conduct periodic surveys of the linkages established by its staff in carrying out their normal job activities. Staff training should include the development of a positive working attitude toward cooperative and coordinated programming among delinquency prevention agencies.

References

1. "A Program Management System for Youth Development: Implications for the Human Services." Prepared by the Youth Development Program, University of Colorado, with the Office of Youth Development, U.S. Department of Health, Education, and Welfare, November 1974.

2. Buell, Bradley. "Structure and Substance in Interagency Joint Planning and Collaborative Practice." National Institute for Handicapped Children and Youth (mimeo), 1963.

3. First Annual Report: Office of Juvenile Justice and Delinquency Prevention, Vol. 1, September 30, 1975, LEAA, U.S. Department of Justice.

4. Litwak, Eugene. "Toward the Multifactor Theory and Practice and Linkages Between Formal Organizations," article prepared for Department of Health, Education, and Welfare, Social and Rehabilitation Services, June 1970.

5. "Youth Serving Systems: Diverting Youth from the Juvenile Justice System." Washington, D.C.: Department of Health, Education, and Welfare, Delinquency Prevention Reporter, July–August 1972.

Related Standards

The following standards may be applicable in implementing Standard 2.6:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.4	Clarifying Delinquency Prevention Goals
1.6	Integrating Individual Prevention Programs Into the Community Comprehensive Plan
2.2	Office of Delinquency Prevention Planning
2.3	The State's Role in Delinquency Prevention
2.5	Organizational Capacity to Act
2.8	Financing Delinquency Prevention Programs
2.9	Resource Allocation
4.1	Police Policy as an Expression of Community Standards
4.6	Participation in Policy Formulation Efforts
6.1	Participation in Community Planning Organizations
6.3	Relationships With Youth Service Bureaus
7.2	Planning Commitment
7.3	Evaluations Commitment
8.2	Family Court Structure
18.5	The Leadership Role of the Family Court Judge
25.1	State and Local Responsibility for Planning and Evaluation
26.2	Develop Goals

Standard 2.7

Youth Participation

Youth should be included in the membership of all commissions and organizations concerned with the planning, implementation, and evaluation of programmatic and policy decisions relating to delinquency prevention.

Commentary

If the youth development or delinquency project has some kind of change as its ultimate objective, then it is the youth target group of that project who are at once both the objects and agents of change.

Since the above statement was written for the U.S. Department of Justice in 1947, youth involvement has evolved into a popularized term that is often misunderstood, frequently misused, and only occasionally applied as a meaningful concept to communities, agencies, and governments. The White House Conferences on Children and Youth of 1959 and 1960 saw the theme of youth involvement displayed prominently. The White House Conference of 1971 recognized and strongly urged this Nation to utilize its young people in solving social problems. A Task Force report of the 1971 White House Conference stated that, "Because of the inadequacy of the juvenile justice system in areas of law enforcement, adjudication, disposition, treatment, and correction, we recommend that there be drastic reorientation of the roles and functions that these institutions perform. Such changes should include greatly expanded youth involvement."

There are today some positive examples of youth involvement in community and State planning programs. But certain self-limiting factors are still operating within society to inhibit the process. Adults and young people view each other as separate classes with certain general characteristics extending to all members within each class. These stereotype barriers seriously interfere with youth/adult interaction and they are generally based upon unsubstantiated biases.

Young people are not considered equals within the predominantly adult decisionmaking process because youth's general level of expertise is deemed insufficient to warrant such consideration. At the same time, however, most social systems do not participate in the training of young people to become decisionmakers. To date, training has been done inconsistently and there is no assurance that young people coming into decision and policymaking positions will be given the necessary materials and training in such areas as group process, decisionmaking, analysis of social systems, parliamentary procedure, researching, and surveying.

Thus, the youth/adult frustration cycle has not been broken to any significant degree. It is true that adults and young people must learn neither to undervalue nor overvalue each other. Most adult decisionmakers, however, have erred in undervaluing young people. There is no evidence that young people make biased or unwise decisions if they are provided with the same information and given the same level of expectation as adults.

Adults generally pay inadequate attention to the details surrounding youth involvement—details that are mandatory if a youth/adult alliance is to be formed. When young people become quiet during policy or program meetings, eventually dropping out and perhaps joining some subculture where they feel their opinions are valued and their input considered, adults too rarely ascertain the reasons for such behavior. When predominantly adult policymaking bodies do not consider appropriate times or meeting places, making it difficult or even impossible for qualified young people to participate, such inconsiderate behavior is noted by them. Therefore, attention must be paid by adults to general modes of participation in order that both young people and adults recognize their responsibilities and what is expected of them by the social system.

Perhaps the most discomforting fear to the adult power structure is that participation by young people will require certain traditions and methods to be altered—methods that have been comfortable, generally nonconflict producing and predictable. If adults give young people the knowledge gained about social systems through their longer experience, the knowledge gulf can be narrowed. However, in giving young people this knowledge, adults fear, perhaps rightly, that the power of young people will also increase. Such a fear is only warranted if adults are not striving for an alliance. If an alliance is the goal, then both groups have greater power, because one can increase the power of the other.

Some organizations have made efforts to include qualified youth in decisionmaking, to the point of training youth and being receptive to their views. They have not, however, created feedback loops that allow the input of young people to be included in subsequent decisions made by that system. Whether such feedback is in the form of surveys, forums, task forces, or other types of efforts is a decision best left to the individual social system. Nevertheless, without such feedback, decisions within the social system cannot reflect current youth values and anticipate future ones.

Qualified young people should be included in all planning, implementation, and evaluation of programmatic and policy decisions relating to delinquency prevention. Youth participation should be guided by the following principles:

1. Adults within social systems should openly share with young people the knowledge they have gained through their longer experience in such systems.
2. Adults should welcome the entrance of young people into decisionmaking as an opportunity for youth learning, not as a complication between efficient and inefficient decisionmaking.
3. Any organization established to prevent delinquency should integrate new young people consistently into the system as participants in the decisionmaking process. Youth involvement must be a continuous effort. Changes that occur in youth values and roles, and their effects upon the community, are expected to alter so quickly that if the same youth are left in decisionmaking and policy positions for extended periods of time, they may no longer reflect the opinions and values of their peers. Social systems must be cognizant of the turnover that occurs in the area of youth involvement.
4. Through the utilization of young people in decisionmaking at all levels of government and organization, the opportunity exists to have feedback about the values and roles of young people over a period of time. Organizations should view this opportunity for feedback as a positive attribute surrounding the inclusion of young people.

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1. "A Statewide Program for Children and Youth Services," a paper prepared by the Department of the California Youth Authority, 714 P Street, Sacramento, Calif. 95814, June 1, 1972.

2. Green, Wade. "Youth's Agenda for the 70's: A Report on the White House Conference on Youth with a Summary of the Recommendations." The J.D.R. III Fund, New York, 1971.

3. Havelock, Ronald G. *Planning for Innovation Through Dissemination and Utilization of Knowledge.* Ann Arbor: University of Michigan Institute for Social Research, Center for Research on Utilization of Scientific Knowledge, 1971.

4. "Information Needs and Plans to Meet Them," prepared by American Institutes for Research for Office of Juvenile Justice and Delinquency Prevention.

5. Muhich, Donald F., M.D., "Changing Youth Values and Roles," chapter prepared in October 1972, for the Law Enforcement Assistance Administration, National Advisory Commission on Criminal Justice Standards and Goals, Community Crime Prevention Task Force, by the Youth Involvement Program, Children's Hospital of Los Angeles.

6. Proceedings and Reports of the White House Conferences on Children and Youth, Government Printing Office, 1910–1960.

7. Ruesch, J. and Bateson, G. *Communication*. New York: W. W. Norton & Co., 1951.

Related Standards

The following standards may be applicable in implementing Standard 2.7:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.3 Profiling the Nature of the Delinquency Problem
1.4 Clarifying Delinquency Prevention Goals
1.5 Inventorying Community Resources
2.1 The Local Role in Delinquency Prevention
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
3.9 Education—Integrating Schools Into the Community
18.4 The Court's Relationship With the Public
25.1 State and Local Responsibility for Planning and Evaluation

Standard 2.8

Financing Delinquency Prevention Programs

Delinquency prevention should become a high priority for public support. State government and units of local government should develop methods of insuring continuous levels of adequate funding for delinquency prevention programming.

The Federal Government also has a significant funding responsibility for delinquency prevention. Funds earmarked for prevention should be provided on a block grant basis to States.

Allocation of funds from all levels of government should be based on knowledge of the problems associated with delinquency in a particular area rather than solely on population factors.

Commentary

Effective delinquency prevention programming assumes that there will be adequate levels of funding support on a long-term basis. The history of prevention shows a pattern of many promising program ideas that were not given adequate trials due to insufficient resources. In other instances, large amounts of Federal money have been placed into specific programs, but units of local government have found it impossible to sustain high levels of fiscal support once Federal funding was terminated. Often units of local government cannot accept those Federal funds available because they are unable to come up with the matching grants required by the programs.

Few States are geared up to finance delinquency prevention programming either legislatively or administratively. In most States, there is no clear mandate to spend money for prevention, nor is there a mechanism for expenditure of funds that are appropriated for prevention purposes. At present, there are no State plans that project prevention resource costs over long periods of time and few public officials have a clear understanding of the current levels of expenditures for prevention-related goals.

In a period of scarce public resources, the funding of prevention efforts must depend upon skillful reallocations of existing funds and prudent use of new sources of fiscal support. There must be a search for nongovernmental sources of support to supplement public expenditures for delinquency prevention. Perhaps the key to providing adequate fiscal support for delinquency prevention is the building of a consensus that places a high priority on prevention efforts.

States should enact specific legislation similar to the Federal Juvenile Justice and Delinquency Prevention Act of 1974, that sets forth definitions of the goals of prevention and establishes legislative responsibility for providing prevention funding. This act should designate the State agency that will administer

State prevention funding as well as receive Federal funds specifically aimed at delinquency prevention. The legislature should also instruct other State crime control organizations, such as criminal justice planning agencies, that delinquency prevention should be one of their funding priorities.

Such State legislation would provide a mechanism through which State governments could be held institutionally responsible for supporting prevention programming. The act should spell out the relations between State and local units of government in matters of funding. For example, the act should permit the State to provide matching dollars for locals who wish to receive Federal delinquency prevention funds. There also should be a program of State funds designed to stimulate local units of government to spend money for prevention programs.

State and local units of government should adopt five year budgets for prevention programming to insure that there will be continuous support for prevention efforts. These long term budgets should develop a plan for expenditures and expected results to establish fiscal limits on the scope of prevention funding. Local and State delinquency prevention agencies should develop an accurate picture of current levels of funding being spent on prevention related programs. There should be a Prevention Budget that measures the amount of public and private funds being spent on programs consistent with State and local delinquency prevention plans. This method of budget analysis adds up prevention funding from other departmental budgets and provides a basis for decisions to reallocate existing prevention resources. The Prevention Budget would be used to disclose current amounts and distributions of funding among various child and youth serving agencies. Budget analysis can be compared with comprehensive plans to determine if imbalances exist or if there are areas that require new sources of funding.

Better resource allocation at all levels of government is crucial to providing support for prevention planning. Improved methods of budgetary analysis together with realistic cost-benefit evaluations of program results are important components of the reallocation process.

State and local units should develop plans to increase the effectiveness of private sector funding for delinquency prevention. At the State levels, there might be programs that provide tax incentives to business groups which support prevention efforts. For example, States might provide tax incentives for businesses that create new jobs for youth. Private foundations should be encouraged to fund experimental programs of delinquency prevention in communities interested in new approaches. Local units of government should seek the support of service clubs and organizations such as the Junior League, local Chamber of Commerce, Lions Club, or religious organizations in funding delinquency prevention efforts. Prevention planners should seek to influence the allocation patterns of united charity crusades.

Specific plans for increasing the level of funding for prevention programming will differ according to local conditions. Some jurisdictions might consider a special purpose tax to raise funds for prevention programs. Other jurisdictions may be limited to budget reallocations that can be made within existing sources of revenue. State and local funding arrangements should be worked out for consistency with other social programming funding.

The Federal Government has a responsibility to collect and distribute revenues for domestic programs. The collection of resources at the national level dictates that some organizational structure exist through which these resources can flow to support local programs. It is imperative that Federal structures for the distribution of delinquency prevention funds be based upon giving State and local governments sufficient resources to meet local needs.

The flow of Federal resources for delinquency prevention programs should be in the form of block grants to the States. Allocations to each State should be determined on the basis of demographic characteristics associated with delinquency. Priorities in funding should recognize areas having the greatest delinquency problems. It is not always true that localities with larger populations will need more prevention funds. Formulas based on factors contributing to delinquency should be developed by which communities, cities, States, and regions can be ranked according to their delinquency prevention needs.

Increased funding for prevention at all levels of government requires the building of a citizen's lobby. Public pressure on governmental officials is one way of generating new funding for specific areas of programming. The prevention lobby should be organized at local, State, and national levels through interlocking associations of clients, citizens, and providers of prevention services. It is important that statewide associations of prevention volunteers and juvenile justice workers keep informed about national and local funding developments. The prevention lobby should insist that all levels of government determine the delinquency prevention impact of each new piece of legislation. Citizens within the States and throughout the Nation should be kept informed through newsletters and other publications that report on events of importance to delinquency prevention programming.

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2. Green, Wade. "Youth's Agenda for the 70's. A Report on the White House Conference on Youth with a Summary of the Recommendations." The J.D.R. III Fund, New York, 1971.

3. Murray, Charles A. and Blair B. Bourque. *Budget Priorities and Trends in the Federal Effort to Combat Juvenile Delinquency*, submitted to: Office of Juvenile Justice and Delinquency Prevention, LEAA, Department of Justice, by American Institutes for Research, September 1975.

4. NCCJPA Juvenile Guidelines, developed by University of Illinois and LEAA.

5. *Recommendations for Action*, prepared for the U.S. Department of Justice by the panels of the National Conference on the Prevention and Control of Delinquency. Washington, D.C.: Government Printing Office, 1941, p. 81.

6. Report to the Congress: How Federal Efforts to Coordinate Programs to Mitigate Juvenile Delinquency Proved Ineffective, Department of Justice, Department of Health, Education, and Welfare, by the Comptroller General of the United States, Apr. 21, 1975.

Related Standards

The following standards may be applicable in implementing Standard 2.8:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.5 Inventorying Community Resources
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.9 Resource Allocation
7.2 Planning Commitment
7.3 Evaluations Commitment
19.2 Creation of a State Agency for Juvenile Intake and Corrections
19.5 Specific Responsibilities
25.1 State and Local Responsibility for Planning and Evaluation
25.2 Adequate Operational Funds for Planning and Evaluation.

Standard 2.9

Resource Allocation

Federal, State, and local governments should insure adequate resources for juvenile justice and delinquency prevention programs. Each level of government should recognize that:

1. Resource allocations should be of a stable, ongoing character. Erratic efforts that generate unfulfilled expectations are seriously counterproductive.

2. Adequate resource allocation requires the concerted efforts of all levels of government. Expectations of Federal assistance should not deter State, local, and private authorities from energetic efforts to procure adequate resources.

3. Juveniles currently account for nearly half of the arrests for serious crimes in the United States and the ratio of resources allocated to the adult/juvenile systems should conform to these findings.

4. Adequate resource allocation requires the continuing support of major efforts to employ empirical means to identify resource needs, plan for maximum utilization of available resources, and assure competent evaluation of juvenile programs.

Commentary

In 1967, the President's Commission on Law Enforcement and Administration of Justice emphasized that one reason for the failures and shortcomings of juvenile justice and delinquency prevention programs was the continuing unwillingness to allocate adequate resources to support these programs. In the nine years since that report, there has been little change in the provision of resources for the juvenile justice system. This standard is intended to underscore the fact that it is simple hypocrisy for lawmakers to issue wide-ranging proclamations calling for improvements in juvenile justice while failing to allocate adequate resources to support those efforts.

All too frequently, the hopes of youth and concerned adults in a local community are raised by the temporary infusion of funds for innovative programs, only to be shattered as resource support is summarily withdrawn. Each level of government should recognize that there is a long road ahead in effectively grappling with the urgent problems of the juvenile justice system, with adequate progress contingent on stable, ongoing commitments to the funding of essential programs and the provision of qualified personnel and the procurement of adequate facilities.

It must also be recognized that State and local governments share major responsibilities in resource allocation for juvenile programs. While continued and increased Federal assistance is essential, expectations of Federal contributions ought not impede these governments' efforts to expand resource support. Moreover, the potential for involving the private sector should not be overlooked.

The Juvenile Justice and Delinquency Prevention Act of 1974 emphasizes that juveniles account for almost half the arrests for serious crimes in the United States today. Despite these findings, practitioners in the juvenile system are almost invariably regarded as of a lower status than personnel in similar positions in the adult criminal system. Adult programs uniformly receive the lion's share of the resources allocated to the criminal/juvenile justice system.

This standard includes the important recommendation that resource allocation to the juvenile system should proportionately reflect the magnitude of adult/juvenile problems. In some cases this would mean that juvenile programs should be supported on a true parity basis with the adult system. In all cases it would mean that the ratio of adult-to-juvenile allocation should be carefully reevaluated so that this ratio more adequately reflects the magnitude of the respective problems. Hopefully, these reforms can be implemented by increasing resource support to the juvenile system, while continuing present allocations to criminal justice programs. Where this is not feasible, available resources should be reallocated from the adult system to juvenile justice and delinquency prevention.

A realistic commitment to adequate resource allocation requires full utilization of scientific techniques in identifying resource needs, planning for effective utilization of available resources and carefully evaluating juvenile programs.

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1. Kobetz, Richard, and Bosarge, Betty. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*. Washington, D.C.: Government Printing Office, 1973.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Criminal Justice System*. Washington, D.C.: Government Printing Office, 1973.

4. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 2.9:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.5	Inventorying Community Resources
1.7	Evaluation
2.1	The Local Role in Delinquency Prevention
2.2	Office of Delinquency Prevention Planning
2.3	The State's Role in Delinquency Prevention
2.4	The Federal Role in Delinquency Prevention
2.8	Financing Delinquency Prevention Programs
7.2	Planning Commitment
7.3	Evaluations Commitment
25.1	State and Local Responsibility for Planning and Evaluation
25.2	Adequate Operational Funds for Planning and Evaluation

Chapter 3

Programmatic Proposals for Delinquency Prevention

INTRODUCTION

This chapter presents specific programmatic standards, which were derived after careful review and discussion of theories of delinquency and which, it is believed, should be components of a program for delinquency prevention. These programs should be implemented, however, only after a community determines the nature of its delinquency problems. An attempt has been made to portray in a balanced and objective manner the state of the art in the various areas covered. The standards are designed to conform to the general principles elaborated in the introduction to Part 2 of this volume.

Method Used in Arriving at Standards

To assist in deliberations on the possible programmatic standards, behavioral scientists were commissioned to prepare five papers summarizing the body of delinquency theory currently available. The focus on theory and research was consistent with the view that any action should follow from theoretic and empirical knowledge. The papers covered the following topics:

1. The Biological Bases of Delinquency and Crime.
2. Psychological Theories of Delinquency.
3. Subcultural Theories and Delinquency Prevention.
4. Labeling and Conflict Theory.
5. The Social Control Perspective on Juvenile Delinquency.

The authors were asked to summarize the underlying assumptions and to discuss the empirical or factual assertions of each theory. Theories were compared in terms of fundamental differences in their explanatory variables and each theory was compared with available research evidence. Finally, authors were asked to attempt to examine how the theories would translate into policy implications that might lead to the development of standards. Each paper contains some discussion of the differing implications for policy that flow from the theories. The commissioned papers then were sent to other prominent behavioral scientists for review and criticism, and the reviewers were asked to suggest alternative policy implications that might be drawn from the comparative analyses of the theories.

Task Force members read all of the papers and engaged in a daylong discussion of issues in delinquency prevention. This review and discussion was conducted to familiarize the Task Force with the findings of delinquency research and to enable them to develop a critical understanding of the theories and to formulate tentative programmatic standards.

Project staff drew up a preliminary list of possible standards for delinquency prevention and Task Force members were given the opportunity to comment on and add to it. The list then was refined and Task Force suggestions were incorporated in the development of draft standards. Searches were made of all reports of national commissions and several States in the various programmatic areas; and all pertinent publications in the delinquency prevention area for the last several years, including the leading journals in the fields of health, housing, education, and family services, were reviewed. In sum, an exhaustive program of research was conducted within a rather limited time span to gather the best professional wisdom on the subject of delinquency prevention and related human service fields.

The commentary to each standard links the standard to research and theory in the delinquency field. The commentaries also include discussion of issues that may arise in implementation of the standards, and, offer alternative methods for accomplishing the objectives of the standards. Most standards also include references to the literature, which are helpful in providing more detailed information, and citations of specific programs or communities that have attempted to implement the crux of a standard.

Task Force members discussed draft standards, made specific suggestions for changes, and offered additional suggestions for programmatic standards, which were researched and developed further by staff.

Human Development and Delinquency Prevention

A recurring theme of contemporary literature on the causes of juvenile delinquency is that the same concepts used to explain the development of normal behavior should be used to explain deviant or criminal behavior.[1] In other words, there is no separate behavioral science for deviant behavior that is not derived from the general concepts of human behavior.[2]

To introduce the programmatic standards for delinquency prevention, it is useful to begin with a simplified model of child development, which will assist the reader in understanding how specific standards relate to the lives of children.[3] A child is conceived with a biological potential for developing into a healthy and normal human being. A part of the potential to develop normally is structured by genetic factors, and a large part of this potential is determined by the quality of health care that the mother receives during pregnancy. If malnutrition, inadequate medical care, or disease are characteristic during the prenatal period, there are grave possibilities that normal child development will not occur. Medical officials now agree that a proper program of health care available to all pregnant women is the most effective preventive measure against dangers such as infant mortality, birth defects, and brain damage.

Although this first stage in the child's life is crucial, it is limited to establishing the potential for development in the growth process. It is the social interaction between the child and those in its immediate environment that constitutes the vast majority of the steps contributing to the production of a healthy and normal young person.[4] This development is largely dependent on others, because the human infant is almost completely helpless and totally reliant on others for protection, provision of needs, and sustaining of life. We know from classic psychological research, for example, that babies deprived of affection will develop more slowly or may even die. During the period of infancy, the affective gratification of the child is the central process in development. The child learns by the way he or she is treated by adults; he or she learns either to connect pleasure with being with others or to connect feelings of pain and fear.

In the first year of life, the child begins to develop sensorimotor experiences by attempting to move parts of the body and experiencing the results. The child learns the difference between itself and the environment and begins to make connections between its own behavior and the gratification of its bodily needs (e.g., when it cries because of hunger or the need to have diapers changed and this behavior produces the appropriate response in adults).

During the next few years of life, a child's sensorimotor skills and affective relationships expand. Most children learn to walk during these years and begin their development of language skills, too. The social development of the child advances rapidly during this period as the child learns more about parental expectations regarding its behavior and how to comply with the wishes of parents. Compliance learning is largely centered on control of bodily functions and development of self-control. It is during this period that one may observe the child internalizing parents' commands, i.e., when the child is overheard reminding itself not to touch the stove because it is hot.

Up to this point, the child's world is limited mainly to observing the behavior of those adults and siblings who reside in the same environmental space. The child has close affectional ties to these others, and the interactions of the child with its siblings and parent-figures are crucial in the early development of a positive self-image. The learning process is enhanced by environmental stimulation and good health care, but the central developmental relationship occurs within the family.

As the child moves out of the years of early childhood, others are rapidly introduced into its social world. These new persons, whether they are adults or children, have the developmental effect of expanding the range of social roles or types of behavior that the child can observe and mimic.[5] In addition, during this period, television, a powerful, nonhuman model, begins to bombard the child with rapid moving images and attractive sounds that invite attention. The child learns language and other forms of social behavior from television, and elaborates on these new behavioral roles and practices during play. Relationships with other children expand the role-learning process into games in which two or more children enact scenes from home life, television, or fantasy.

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[1] Gibbons, Don. *Delinquent Behavior*, 1975.

[2] Taylor, Ian; Walton, Paul; and Young, Jock. *The New Criminology*, Routledge and Kegan Paul.

[3] More extensive discussions can be found in Paul Mussen and John Conger, *Child Development and Personality*, Harper, 1956; Brim, Jr., Orville G., and Wheeler, Stanton, *Socialization After Childhood: Two Essays*, Wiley, 1968; or James Coleman, *The Adolescent Society*, Free Press, 1961.

[4] Gerth, Hans, and Mills, C. Wright, *Character and Social Structure*, Harcourt, Brace and World, 1964.

[5] Bandura, Albert, and Walters, Richard. *Social Learning and Personality Development*, Holt, Rinehart and Winston, 1963.

In the preschool years, the learning process is rapid and extends to instrumental and expressive themes. Instrumental themes involve learning how to exercise will or intention. This behavior is goal-oriented, and the child learns of its ability to satisfy a wide range of wishes. Expressive themes involve personal statements of inward feelings and emotions. The child becomes more aware of itself as a person with distinct feelings that must be presented to others for their reactions. A child's emotional development and self-confidence are heavily dependent on responses of adult and child actors in the youngster's social world. Parents, day-care workers, and preschool contacts with adults play an important role in developmental processes during this stage of growth.

At approximately age six, the child enters the social world of formal schooling. The world of school shares with the home environment the major role in subsequent child development for the next 12 to 20 years. A great deal has been written about the impact of schooling on child development, and most delinquency theorists emphasize the school as a factor in the etiology of delinquency.[6] The role of schools in delinquency prevention is complex, and, consequently, a substantial number of standards are devoted to school issues.

In school children learn even more about their relationships with others and about the world around them. The education process expands the cognitive and affective skills of the child and provides a structured forum for testing new abilities. Children learn to have their abilities evaluated by peers and teachers, and these evaluations become an important part of the emerging self-identity of the child. The child becomes aware of broad societal goals and is oriented toward development of desired skills and personal characteristics.

As the child enters the period of adolescence, major biolological changes take place. The major development of a child's awareness of its sexuality occurs, and along with this comes complex interrelationships with members of the opposite sex. Muscular and other physiological changes also occur, which contribute to an inward state of uncertainty or lack of confidence. The crisis of adolescence usually finds the youngster seeking information and comfort from peers.[7] This is a time of new learning about sex role expectations and more clear-cut considerations of future plans.

The drives toward achievement and peer acceptance intensify during this period, and to these motives are added new desires for relations of intimacy with other persons.[8] Adolescents often express strong preferences for personal freedom and autonomy as they begin to test newly acquired identities. But adolescence is most often a time of ambivalence in which striving for personal autonomy is linked with a need to belong, and the desire to be grownup conflicts with a wish to revert to more childlike behavior. It is a time when youngsters are most prone to social suggestion and seek peer affiliations to learn appropriate or sometimes inappropriate forms of social behavior.[9]

For all children, the peer group provides a setting in which the child can experiment with forbidden commodities, such as drugs, tobacco, and alcohol, or can engage in deviant behavior without adult scrutiny. For most youngsters, this experimentation produces no harmful effects, but for a few, these youthful experiments may seriously interfere with normal physical and social development.[10] What is crucial here is not how to prevent abnormal behavior in the adolescent but rather how to structure the adult response to this behavior so that the child will be protected from unnecessary early negative labeling or social responses that embitter the young person. Whether the subject is drug abuse, adolescent sexuality, or youthful misbehavior, official response to such behavior should strengthen the possibilities for normal child development and minimize negative sanctioning.[11] The child who perceives the world as arbitrary and beyond its power to influence may develop a poor self-image and may strike out against authority figures. During adolescence, the child either is encouraged to conform to normal behavior or begins a process of cynicism and alienation that may lead to delinquency and adult criminal careers.[12]

The later years of adolescence are equally filled with learning about the world and of the socially acceptable roles that are available. The youngster begins to seek some training for career or job placement and desires to be connected with the world of work and to learn the skills necessary to satisfy its needs for material goods and basic services. (Delinquency theorists argue that children learn about the opportunities available to them in the worlds of work and schooling, and that these perceptions of opportunity can help or hinder the social development of the child.[13] The child who is optimistic about the world of work and education will develop a strong sense of belonging within the society and a feeling that the society is legitimate; but the child who views a future of deadend jobs or continuous unemployment cannot be expected to learn to respect the moral codes of society.)

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[6] Schaefer, Walter and Polk, Kenneth. *Schools and Delinquency*, Prentice-Hall, 1972.

[7] Erikson, Erik. *Childhood and Society*, Norton, 1950.

[8] Sherif, Muzaber and Sherif, Carolyn. *Reference Groups*, Harper and Row, 1964.

[9] Erikson, Erik. *Identity: Youth and Crisis*, Norton, 1968.

[10] Matza, David. *Delinquency and Drift*, John Wiley, 1964.

[11] Schur, Edwin. *Radical Non-Intervention*.

[12] Hushi, Travis. *The Causes of Delinquency*, University of California Press, 1969.

In later adolescence, the child begins to see the realistic limits of social roles that are open and emerges feeling either good about itself or bitter and disillusioned. If the youth has contact with the juvenile justice system during this period, and if that encounter provides negative experiences with that system of adults, the encounter may have a grave impact on the youth's chances to gain a decent share of the social rewards available to young people.[14] Also during this period, the impact of family and environment remains quite strong as an influence in further development. Family members can offer support and encouragement during difficult periods for the youngster. Negative peer influences can be countered by firm but loving parental attention. But the family cannot and should not be expected to work miracles in the case of the child who sees little hope for the future and who is beginning to be labeled a failure in school or work situations. The cohesion of families often is strained by pressures to meet basic living needs, resulting in the inability of family members to solve problems and conflicts. If the family is expected to be a source of strength and moral development for the young person, then the resources necessary to preserve and foster family cohesion must be created. Moreover, it is necessary to create a climate in which the maximum number of youngsters are given the opportunity to develop to their fullest human potential within a supportive and caring social environment.

Human Services and Delinquency Prevention

Public action in delinquency prevention generally is restricted to improvements in the quality of human services provided to community members. This limitation does not negate individual responsibility and choice as a factor in the prevention of delinquency, but rather emphasizes that governments can influence personal action through educational, developmental, and supportive programming. Thus, although suggestions about child-rearing practices or child-teacher relations could have been offered, these would have overlooked the organization of service necessary to insure broad impact of such advice. The standards generally are cast in terms of specific recommendations to units of government or public agencies, but these programmatic ideas also are aimed at citizens who wish to evaluate the quality of the environment for child development in their own communities.

Because it is believed that delinquency problems can be responded to best at the local level, most of the standards are directed toward local action. The topics covered, however, exist within a larger, national framework, and, therefore, discussion of some of the broader issues inherent in delinquency prevention programming is included.

The Health System

The health system refers to the network of people and facilities that is organized to provide care for the physical and mental health needs of the community. It includes doctors, nurses, medical technicians, and paraprofessionals, and the various equipment and technologies they employ. The health system is connected to delinquency most directly in the area of drug abuse, but there is increasing evidence that adequate health care can be of substantial help in preventing certain biologically related problems, such as hyperactivity or specific learning disabilities. Emphasis in the health area is on early identification of medical problems that might lead to behavioral conflicts that contribute to delinquency. Recommendations in the area of mental health are aimed at helping individuals and families who face personal difficulties cope with societal and interpersonal tension.

The major issue in the provision of health care is the growing expense of providing adequate systems of health service. Good health care is becoming too expensive for most citizens to afford. Less affluent segments of the population are in particularly bad positions, because often they are more prone to illness due to nutritional deficiencies and have limited funds to purchase health services.

Currently there is national debate on alternative methods for financing health service, and there is increased concern for improving delivery of preventive health care services. The standards proposed in the health system area describe a minimum system for providing mental and physical health services. The thorny issue of funding such efforts through national health insurance or a private plan must be considered as part of the overall approach to providing good health services to families and children who desperately need such care.

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[13] Cloward, Richard, and Ohlin, Lloyd. *Delinquency and Opportunity*, Free Press, 1960.

[14] Wolfgang, et al. *Delinquency In a Birth Cohort*, University of Chicago Press, 1972.

Family Services

It is ironic that, despite a longstanding national dedication to the ideal of family life, so little concrete action has been taken to promote the well-being of families. Family services are among the least developed in social work practice, and few localities offer a comprehensive program in this area. Particular problems in the family area include the outdated system of welfare, which often works to destroy family ties rather than preserve them; the tax structure, which often penalizes families; and changing sex role definitions, which are causing many persons to reevaluate the traditional forms of family life. It is not difficult to perceive that family life is going through a significant transformation within our society, in which old forms of family arrangements are being reexamined and new forms tried. Under such conditions of flux, it is important that positive steps be taken to support those families who are struggling to stay together.

To advocate one particular form of family life would be to make the same error as earlier national commissions, which supported one family style. The concept of family defined here is that of a living unit that provides care and nurturant support for its members in the context of mutual respect and love. This is the kind of family that can promote strong positive self-images among the young and perform the needed task of promoting the moral development of children.

The Educational System

Many observers have commented on the importance of the school in child development. The educational area is crucial to any comprehensive program for delinquency prevention. The central theme of the standards in this area is the need for a more thorough collaboration of the school system with the community. Schools must be integrated with the family and with other features of children's lives to provide meaningful educational experiences. The content and process of learning must be enriched by the diversity and support of community persons, who have much to contribute to the educational enterprise.

The question of financing is central to the educational area. School districts across the Nation are attempting to develop more equitable methods for securing educational revenues and distributing them fairly. The question of resources also is linked to the issue of school performance. The public is demanding higher levels of educational results commensurate with increased public expenditures. There is serious debate over the adequacy of current methods for evaluating both teachers and students. One reasonably might expect that the educational system will continue to be a focus of public attention, because Americans have so much faith in it.

Manpower Development and the Employment System

A number of delinquency theorists have stressed the role of employment in assisting the child in the successful transition to adulthood. Indeed, many of one's social relationships develop from the work environment. Work is a crucial component of individual assessments of self-worth, as well as one method for accomplishing personal objectives. Unfortunately, the national record with respect to the employment of youth is not good; at present, nearly two-thirds of the Nation's teenagers are unemployed. Unemployment rates among inner-city minority youth are even higher. If this continues, the Nation faces the dismal prospect, and, indeed, the social disgrace of having an entire generation of disadvantaged youngsters who may never hold a steady job in their adult lives.

The standards offered specify only the kinds of steps local communities can take to improve the employment prospects of their youth. But there must be parallel action at the Federal level to attempt to maintain high rates of employment for the entire population.

Criminal/Juvenile Justice System

The quality of justice exhibited by the criminal and juvenile justice systems is critical in developing pro-legal attitudes among the young. Juvenile justice personnel must take some responsibility for prevention activities, without seeking to dominate community-wide approaches. The main component of successful law enforcement work in the prevention area is the development of cooperative working relationships with citizens and community groups who are concerned about the problems of crime and delinquency. Collaboration in the areas of diversion programs, the organization of citizen crime prevention efforts, and the dissemination of prevention information are examples of proven positive efforts in which criminal justice personnel help prevent delinquency.

Just as there are demands that the educational system become more receptive to community input, so too, citizens are calling for greater opportunities to scrutinize the juvenile justice system. Public confidence and support for law enforcement will come only from an informed public that is able to participate meaningfully in juvenile justice policies. Juvenile justice practitioners must be more open to citizen involvement in the same way that educators or health care professionals must be more open to public dialogue in their fields.

Criminal and juvenile justice agencies must be public examples of the principles of honesty, justice, and fair treatment. Lingering discriminatory practices in recruitment or selection of new personnel must end. Law must be enforced according to the principles which are cherished in a democracy. Anything less than the pursuit of justice surely will foster cynicism and apathy among the young.

Recreation

In times of scarce financial resources, it might seem logical to view recreation as a luxury item that can be ignored easily for the present. This view, however, grossly underestimates the role of recreation in the process of child development. Recreation permits children to learn new skills and to practice the social attitudes of cooperation and fair play. Recreation programs also can offer the individual an opportunity to express aspects of behavior not properly valued in other settings. Cultural enrichment programs are especially helpful in building positive self-images among the young and in developing their stake in conformity.

Many observers believe that the rising costs of recreation are out of control. Public space is at a premium and units of local government are pressured to make the most effective use possible of available space. One partial solution to this problem is to promote greater sharing of recreational facilities between the public and private sectors. Too often, resources are made available without proper coordinated planning, resulting in duplicative services. Public use of school and private recreational programming should be expanded, and special emphasis should be placed on the neglected recreational needs of low-income neighborhoods. Innovative solutions for funding of recreational programming must be sought, so that the costs are kept within the means of all.

Housing

There are several ways in which adequate housing can be an effective component of a community program for delinquency prevention. First, decent housing would provide an environment that would foster normal and healthy children.

Principles of environmental design can be used to increase safety from crime in streets, public areas, and housing units. Environmental programs to promote safety often encourage increased use of public space in order to discourage law violators. Part of the answer in the housing area is to provide good living conditions that support community life in which neighbors take responsibility for one another.

This country faces a shortage of housing at the same time that there are thousands of abandoned living units in its major cities. The critical priority of all levels of government is to develop programs to recycle current housing resources. Housing is one area that local government can effectively act on, and action in the housing area is often beneficial in stimulating the local economy and providing needed jobs.

Religion

A child's development usually involves the inculcation of a set of moral beliefs that lead in the direction of socially approved behavior. Religious institutions traditionally have played a central role in the area of delinquency prevention, and many religious leaders remain forceful spokespersons for delinquency prevention in their communities. Religious organizations may sponsor programs themselves or they may become vehicles for public education about the subject of juvenile justice. Members of the religious community can be mobilized in support of necessary youth programming. Moreover, the religious community can facilitate the participation of the private sector in delinquency prevention efforts.

Media

People are becoming increasingly aware of the impact of the mass media on their lives and the lives of their children. Television, radio, and the press are sources of education as great as or greater than the more traditional educational institutions of the community. The media constitute a very large national industry, dependent in large part on the patronage of the young. It is important to examine the collective effect of this industry on the development of young people. What values are they being taught by the media? What images of adult social roles do they see? Are they being prodded by media advertising into becoming conspicuous consumers at early ages? These are serious questions and the answers are sobering, especially when we consider the rise in drug abuse among the young and media advertising campaigns that encourage alcohol consumption.

There has been considerable controversy surrounding violence and the media, and increasingly, the evidence has pointed to the detrimental impact television violence has on children. We know through research the effect wars and civil strife have in promoting youthful crime, and it is not hard to understand the impact the violence portrayed nightly on television can have on children. Although it would be wrong to hold the media solely responsible for the rising rates of delinquency, it would be equally wrong to imagine that the powerful communications industry does not exert a strong influence on youthful behavior.

Standard 3.1

Health—Providing Health Services

Comprehensive public health services should be made available to youth. Health services should include preventive health care services, low-cost medical and dental care and programs to assist parents during prenatal and post partum periods.

Commentary

The quality of life experienced by individuals and families is influenced greatly by their state of health. On average, children who are poorly nourished do not perform as well in school as those who receive ample nutrition. Nutritional deficiencies in the diets of pregnant mothers can affect the health of their babies.

In low-income communities especially, the average individual's health is markedly lower than in communities that are economically better off. Environmental health hazards often plague low-income residents. People in need of work occasionally must take jobs that are injurious to their health. Venereal diseases, often more widespread in poorer communities, can affect the health of the young in ways that influence their performance in school or on the job.

In many cases, illnesses result in increased financial hardship for individuals and their families. Deteriorating performance in school caused by poor health can lead to a child dropping out of school. Relations between family members may undergo stress due to mental and physical disorders that the family is not prepared to deal with.

In short, poor health can produce many of the circumstances conducive to delinquency. This is not to imply that delinquency can be predicted from the state of a person's health. However, studies do indicate that poor health is one of the factors that must be considered in assessing the causes of delinquent behavior.

To counteract this relationship between poor health and delinquency, it is important to develop public health services that make high quality medical care available to everyone. A take it or leave it approach will not do. Public health services should aim for quality health service comparable to that available to families with the ability to pay for private physicians.

Failure to obtain needed medical care can be extremely detrimental to a child's development. But even parents who are deeply concerned about their children often cannot see the need for medical help, or they may lack confidence that the medical profession has better knowledge of what is best for their child. Therefore, young people should be encouraged to seek responsible medical advice on their own when the state of their health warrants such advice. Local programs should develop guidelines regarding those medical problems that can be diagnosed and treated while maintaining a confidential relationship between doctor and youngster.

Local health facilities should be staffed by qualified people sensitive to the unique needs of the community. Medical personnel should seek as much rapport with young people as possible in an effort to gain their trust and confidence. Open dialogue also should be encouraged between health services staff and the community in general. Evaluation of health services by the consumers themselves and advertisements by citizen committees, whose membership includes the young consumer, should be integral components of any health services program.

Quality health services should not be more accessible to some segments of society than to others. A basic level of health care services should not be thought of as a privilege. It is a human right and, as such, each member of society should have an equal opportunity to obtain it. Increased health services require increased funding, which must come primarily from Federal sources. Yet, the delivery of needed health services requires local planning and administration, so that the specific needs of each community can be met as effectively as possible.

Examples of ongoing local health services programs are the Asian Health Services in Oakland, California, and the People's Free Medical Clinic in Berkeley, California. The Asian Health Services is bilingually staffed and provides a number of services to the community. Primary health care is composed of low-cost, comprehensive outpatient medical and optometric services. Referral and outreach services are supplemented by translators and escorts to outside facilities. Preventive health care provisions include classes and workshops that use volunteer speakers and multi-media materials and that are presented through other community organizations. A bimonthly, bilingual newsletter that provides technical health information, discussion of health issues, and consumer feedback is distributed to the community through community organizations. The People's Free Medical Clinic offers referral services, physical examinations, free laboratory tests and screening, including sickle cell anemia testing, counseling, and a free pharmacy.

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6. White House Conference on Children. Report to the President.

Related Standards

The following standards may be applicable in implementing Standard 3.1:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.12 Education—Alternative Education
3.13 Education—The Home as a Learning Environment

Standard 3.2

Health—Mental Health Services

States and units of local government should provide a full range of community mental health services to all children and their famiies.

Commentary

The frustrations of modern life often require that individuals seek the help of mental health specialists who can assist them in coping with tensions and emotional problems. Children and other family members experience personal stress in facing such problems as alcoholism, drug abuse, marital conflicts, or delinquency. And even in cases that do not involve these serious problems, many youngsters experience severe emotional tension as part of the process of growing up.

It has been demonstrated that, communities with high rates of delinquency also exhibit high rates of mental illness and family disruptions. But often, the conflicts that occur among family members, or within the individual, may be resolved by mental health professionals who can discuss these problems and offer advice. It is crucial that children and families in high delinquency areas have adequate community mental health resources available to them.

Counseling for youngsters who are experiencing personal problems should be made available through both private and public agencies. Such services can be made most convenient through the use of drop-in centers, storefront locations, and community centers. These centers should receive referrals from the schools, the juvenile justice system, and other service agencies. Short-term counseling services, such as crisis intervention, as well as services for persons requiring long-term, outpatient care should be provided.

Mental health services should focus not only on the treatment of area residents, but also on education. Children and families should be made aware of existing resources in the community to deal with problems such as drug addiction, alcoholism, family conflicts, and mental illness. Educational services should include pamphlets, workshops, and community mental health fairs. These services and aids should attempt to break down negative stereotypes of mental problems and give people the best available information about symptoms and possible treatment alternatives.

Community mental health centers should involve youth in planning programs. The community mental health facility could organize youth councils to promote more active youth involvement in defining community problems and seeking innovative solutions. This approach might include hiring young people as paraprofessionals.

Youth involvement has produced imaginative programming in the areas of services to drug abusers and runaways. Many community mental health services include programs for youth groups who meet to discuss common problems and seek collective solutions. Such groups can offer a good deal of personal support to individuals experiencing emotional stress and also may serve as forums for new programmatic ideas. Consciousness raising groups have proven to be important elements of the therapeutic process for a wide variety of persons experiencing emotional stress.

Community mental health services should offer counseling that protects the confidentiality of young people and offers them options in the therapeutic process. Wherever possible, the community mental health staff should bring to the attention of policymakers those features of the environment that contribute to individual problems of children and their families.

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6. White House Conference on Children. *Report to the President.*

Related Standards

The following standards may be applicable in implementing Standard 3.2:

2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
14.18 Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles

Standard 3.3

Family—Parent Training

States and units of local government should provide parent training programs to strengthen family cohesion.

Commentary

Involvement in delinquency often can be traced to inadequate socialization and the lack of family cohesion. Families with established personal relationships based on love, communication, and support are more capable of meeting the needs of their members. In this kind of secure home environment, the child is better able to learn conventional values, form internal controls, and develop a strong self-image. All of these are believed to insulate youth from delinquent behavior. But everyday experience indicates that many parents are unfamiliar with the requisite attitudes and tools to promote actively successful cohesive family environments.

Parent training programs should be designed to counsel parents about realistic attitudes regarding parenthood and impart to the parents the skills needed to apply fair and consistent discipline. They can provide training in the methods of establishing strong lines of communication and affectional ties. These programs also could provide positive feedback on child rearing methods.

Parents should be prepared to meet the needs of children at each stage of their development. Preparent family planning and education programs can prepare prospective parents by providing them with realistic views of family life. These programs would help clients make informed and rational decisions regarding raising new children.

Program staff composed of community-based nurses, paramedical personnel, and persons with training in gynecology, obstetrics, and pediatrics could educate individuals and families about the importance of prenatal and postnatal care and infant physical exams. This staff also could check health histories to help prevent birth defects and birth complications. Public health caseworkers and family economists could provide information on the costs involved in initiating and maintaining a family, such as medical and health insurance, hospitalization fees, and child care. Psychologists could provide information and counseling regarding common fears and uncertainties encountered by new parents. Through these education and counseling programs, preparents may avoid having unwanted children, a situation that is often disruptive of family life and that results in children forming negative self-images.

Child rearing programs also could contribute to conditions that support family cohesion. Community-based teams of public health nurses, nutritionists, pediatricians, and psychologists could provide classes and counseling on the critical developmental needs of children. Courses also may address the child's need for emotional support. Parents can be given information about the developmental stages that children go through and the kinds of behavior and emotional responses to expect at each stage. The range of effective and nonalienating techniques of child discipline also could be explored.

Communities should assume the responsibility for encouraging provision of such service programs. Local government might institute a Department of Family Services to allocate funds to community agencies and groups for these purposes. But these diverse parent services could be offered by private agencies as well. Family service agencies together with county health officials and organizations such as YMCA/YWCA could collaborate to insure comprehensive provision of services. A preliminary study should be made in each community to identify specific needs, and a system of nonduplicative programs should be conducted to upgrade family cohesion within the entire community.

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6. *White House Conference on Children.* Report to President.

Related Standards

The following standards may be applicable in implementing Standard 3.3:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
11.1 Respect for Parental Autonomy
11.6 Promotion of Continuous, Stable Living Environments

Standard 3.4

Family—Family Counseling

States and units of local government should provide adequate family counseling services to promote family cohesion.

Commentary

Family life may be disrupted in a number of ways. A parent may be lost through death, divorce, or separation. There may be frequent absences of family members because of work responsibilities. Or there may be emotional disturbances related to alcoholism, financial pressures, or marital discord. In the midst of these family disruptions and tensions, children often experience domestic quarreling, lack of attention to their needs, or inappropriate responses to their behavior, which they interpret as personal rejections. Thus, children often are the unwitting victims of family problems, and there is ample evidence linking inadequate family environments to delinquency.

Family counseling and therapy essentially are educational efforts designed to equip individuals with new skills for interpreting behavior and new resources for dealing with family problems. Counseling is aimed at helping families work out their conflicts and difficulties through discussions with trained therapists who may use a variety of treatment modalities. Counseling can be provided in a group setting where several persons experiencing similar problems meet to share their problems and seek solutions together. It is believed that group methods reduce the feeling that the individual patient is being singled out for assistance.

A widely acclaimed variation on the group approach is family therapy, in which all members of the family are required to attend and participate in problem-solving sessions. This approach assumes that most family conflicts involve all members of the family in some manner and that collective solutions may form the basis for future cohesive family relationships.

The objective of family counseling is to help entire families healthfully adapt to emotional and psychological problems confronting them. As interpersonal relationships improve, the whole family is strengthened and individual members sense improvement in their own lives. Family members are asked to examine their relationships with each other to reveal feelings or conflicts that may be creating problems but that are not expressed openly. Individuals are encouraged to explore sources of conflict, and in the process, they learn to increase their effective communication with other family members. Clients are shown methods of conflict resolution and are made aware of resources that may be used to reduce the pressures of everyday life.

Family counseling methods can be applied effectively to a wide range of problem areas. Counseling is used to help individuals manage household affairs effectively. It is used to resolve marital conflicts or conflicts between parents and children. Family counseling services may promote cohesion among families experiencing financial worries, health problems, or severe family breakdowns, such as loss of family members. And counseling can be used effectively to motivate clients to seek any additional services they need to solve family problems. For these reasons, family counseling should be considered an integral part of a program of community services designed to keep families together.

Family counseling services should be provided by both private and public agencies to all families in need of this type of assistance. Counseling programs should be coordinated with other community services to reach prospective clients and to develop comprehensive service plans. Counseling services should be located within the neighborhood setting and together with parent training and other family-oriented efforts. Staff of counseling programs should be well-trained and sensitive to the cultural and social backgrounds of the people they counsel. Staff should be involved in planning seminars, workshops, and community activities that inform the community about issues that concern family cohesion.

Family counseling services should include aggressive outreach programs for reaching persons in need, rather than wait for clients to seek aid. Outreach activities to acquaint persons with available counseling resources should include use of media, newsletters, educational efforts, and well-defined relationships with other community agencies that provide referrals of families in need of counseling services.

Examples of current family counseling programs are the Family Services of Berkeley, Calif., and the Baltimore, Md., PreTrial Intervention (PTI) Project. Family Services of Berkeley aims primarily at improving effective household management by offering a range of services to help families break the poverty cycle, become more self-sufficient, and use community resources. The Baltimore PTI Project attempts to integrate individual counseling of youth with family counseling. The counselors strive to foster understanding of family situations and to resolve family problems that interfere with the individual's realization of self-potential.

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Related Standards

The following standards may be applicable in implementing Standard 3.4:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
11.1 Respect for Parental Autonomy

Standard 3.5

Family—Protective Services

States and units of local government should establish or expand protective services to children and families to facilitate the raising of all children in permanent, stable family environments. Crisis centers for families with potentially Endangered Children should be maintained with personnel trained in problem-solving on a 24-hour basis. The objective of protective services should be to strengthen the family unit and prevent the severance of family ties whenever feasible. Family ties should be severed only in accordance with the standards regarding coercive intervention on behalf of Endangered Children. If the parent-child relationship is terminated, services should be provided to insure provision of a new, permanent, stable family home for the child at the earliest time practicable.

Commentary

Evidence indicates that many parents who abuse or neglect their children were raised in homes in which they were treated with similar abuse or neglect. Moreover, there is continuing support in delinquency research for the idea that inadequate family environments contribute to delinquent careers. Family life that is shattered by episodes of physical or emotional mistreatment may breed feelings of rejection among children and retard the youngsters' normal development. Thus, programs designed to insure that all children are raised in home situations beneficial to their healthy growth should be a major component of a community delinquency prevention plan.

Services to families in which there is some evidence that the child may be endangered are called protective services. Protective services generally are preventive measures intended to remove the need for more drastic action involving coercive intervention through endangered child proceedings. The objective of such services is to preserve the family unit and prevent the severance of family ties whenever feasible by strengthening parental ability to provide good care for their children. An attempt is made to understand the underlying parental problems that contribute to abuse or neglect. Efforts often include working with the children to teach them how to mitigate some of the negative effects of parental behavior.

Unfortunately, protective services are one of the least developed areas of child welfare practice. Many communities have no provisions for such services. In other communities there are gaps in the community's pattern of social sevices for children.

All communities should establish or expand protective service programs. Such programs should include counseling services designed to educate clients about sources of personal difficulties and to equip them with improved abilities to cope with family demands. Another component of protective services involves family advocacy, which involves programs intended to confront general community problems that may be contributing to neglect or abuse.

Child protective services should use methods such as group discussions, in which families with common problems of providing for their children's needs can exchange views and listen to ideas on how to improve their current family situation. All protective services should be connected to community agencies through an appropriate referral network that makes parents aware of the services available to them and that delivers these services when needed.

Protective service programs also require outreach activities to discover families that may need services. Programs should include dissemination of information about Endangered Children and education of various segments of the community about the signs of abuse and neglect. Efforts should be made to initiate truly voluntary contacts with families experiencing difficulties that may harm or endanger children. But it should be recognized that premature coercive intervention with such families may actually aggravate the situation by intensifying family defensiveness and undermining the confidence of parents in their abilitly to stabilize family life.

On the other hand, if there is clear evidence that a child is endangered, the community protective services should act quickly to initiate Endangered Child proceedings in accordance with the standards in Chapter 11. At present, there is a general reliance on police or other law enforcement agencies to handle neglected and abused children. But the resources available to these agencies are quite limited, and law enforcement personnel are not specifically trained to provide protective services.

Protective service programs should establish crisis centers staffed by personnel specially trained to deal with cases of child neglect and abuse. The American Humane Society stresses the need for a 24-hour capability to provide crisis intervention, better training of personnel in such facilities, and improved methods for processing complaints. The use of personnel specially trained in family counseling should enable protective service agencies to solve many problems by providing inhome voluntary services without resorting to coercive intervention. And, in those cases where coercive involvement is necessary to protect the child, crisis centers provide a mechanism for promptly identifying children in need of assistance.

As the American Humane Association study has demonstrated, protective services agencies that serve the community adequately are few. Communities concerned with developing a comprehensive program might be interested in exploring the approach adopted by many victims service centers. The Crime Victims Service Center in The Bronx, New York, for example, provides a model for a citywide service system for crime victims. Victim counselors, who are community-based paraprofessionals and experienced in street-oriented programs, contact the victims and provide referrals to social service agencies. The contacts with victims are made by checking police reports, visiting hospital wards, and using public service advertising, bus posters, pamphlets, radio and television interview shows, and speeches to community groups. The direct services provided range from primary and secondary counseling to accompanying the victims to the service source, and the agency also has taken an advocacy role. Variations of this project can be found in the Victim Assistance Project of Fort Lauderdale, Fla., the Office of Victim Advocacy of Fresno, Calif., and the Aid to Victims of Crime of St. Louis, Mo.

Other examples of ongoing protective services programs are the Boston Children's Hospital and the Volunteers for Juvenile Court Families in Kalamazoo, Mich. The Boston Children's Hospital has established a special center for victims of child abuse. Aimed at preventing further abuse and trauma to the child, this center provides medical care, social work evaluation of the family, and family counseling. The Kalamazoo Volunteers for Juvenile Court Families is an organization that emphasizes assistance to the family of a neglected or delinquent child. Referrals to health care agencies, listening sympathetically to everyday problems, and following up on clients are some of the services this organization provides. Family services agencies throughout the country also provide a range of protective services.

It should be recognized that in some cases the existing family unit cannot be maintained viably. When coercive intervention is necessary, concerted efforts should be made to preserve family ties. In some situations, however, this will not be possible, and the parent-child relationship ultimately may have to be terminated through legal proceedings (see Standard 14.32). In these cases, ongoing services should be provided to insure that the child obtains a new, permanent, stable family home at the earliest time practicable.

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7. White House Conference on Children. *Report to the President,* U.S. Government Printing Office, 1970.

Related Standards

The following standards may be applicable in implementing Standard 3.5:

1.1	Developing a Comprehensive Delinquency Prevention Plan
1.2	Collecting Delinquency Data
1.3	Profiling the Nature of the Delinquency Problem
2.1	The Local Role in Delinquency Prevention
2.8	Financing Delinquency Prevention Programs
2.9	Resource Allocation
5.3	Guidelines for Police Intercession to Protect Endangered Children
8.2	Family Court Structure
11.1	Respect for Parental Autonomy
11.6	Promotion of Continuous, Stable Living Environments
11.16	Intervention Under These Standards

Standard 3.6

Family—Nutritional Services

Each State and local government unit should insure that all children and their families receive adequate and proper nutrition.

Commentary

Deprivation of a basic family need—adequate nutrition—often leads to health problems that can seriously impair the social functioning of children. Adequate nutrition is necessary at all stages of a child's development. In the prenatal period, nutritional deficiencies can impair the infant's normal brain development and functioning. Continued undernourishment of the child after birth and during early developmental years retards the child's physical and mental development and impairs the ability to respond to the environment. Poor physical growth, impaired ability to learn, and short attention spans are all symptomatic of undernourishment, and these symptoms may present problems for the child in school. Psychomotor disturbances often cause difficulties in establishing normal friendships with peers. Moreover, the undernourished child often is tired and irritable, a condition that leads to behavior that might be labeled "troublesome" within the school context. This sort of early and incorrect labeling can damage the child's self-image and negatively affect a teacher's treatment of the child.

Health and education programs can provide families with an understanding of the importance of adequate nutrition as a determinant of good health as well as ideas about improving family nutritional standards. Information also should be provided to school teachers to make them aware of the developmental needs of children and especially of various behavioral symptoms associated with undernourishment. Service programs, such as breakfast and lunch programs in the schools, can increase the availability of nutritious meals to enhance the diet of those who currently receive an inadequate level of nutrition. These programs also can help reduce delinquency by improving school performance, strengthening children's health, alleviating sources of family tension, and improving children's relations with other people in their environment.

Community resource centers can play a valuable role in nutritional efforts by offering multiple and integrated services. The centers can process food coupons as well as offer instruction on eligibility criteria and application procedures for food coupons. Courses, counseling, and newsletters can educate the community about issues of family health and nutrition. Educational programs can instruct parents about child development, focusing on health and nutritional needs, and provide information on such matters as improved meal planning and preparation and use of food substitutes and supplements. Community organizations should reinforce these efforts by sponsoring neighborhood events that offer information on nutrition. Supermarket food economists who are familiar with the preparation of diverse ethnic foods could make available itemized lists of nutritious and economical food specials and interesting ways to prepare meals with them.

Teacher credential programs should incorporate family health education, child development, and nutrition courses as a meaningful part of the curriculum. Local governments should create programs that offer instruction on how to start community gardens, so that people can grow their own fruits and vegetables, and should provide city-owned land for this purpose. Government and community organizations should provide assistance and financial support to establish or extend nutritional services such as free hot breakfast and lunch programs to schools and day-care centers.

Two community-based organizations in California provide examples of what can be done in the area of nutritional services. The Women, Infants and Children component of the Oakland Asian Health Services holds monthly nutrition workshops, including food preparation demonstrations to emphasize nutritious ethnic cooking. The Richmond Consumer's Cooperative Association distributes nutritional information through a weekly newspaper, exhibits at supermarket outlets, and lectures at community centers. Food economists make available lists of nutritious and low budget foods, imaginative recipes, and suggestions regarding meal planning and the use of food substitutes and supplements to improve nutritional intake.

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Related Standards

The following standards may be applicable in implementing Standard 3.6:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.11 Education—Survival Education

Standard 3.7

Family—Assistance in Meeting Basic Needs of the Family

Units of State and local government should provide informational services to help families better meet their basic housing, food, clothing, and social service needs.

Commentary

A primary consideration for any family is the quality of life for each family member and the family as a group. The lack of opportunity to meet the basic survival needs that sustain life at an acceptable level often cultivates divisive conditions within the family unit. And the breakdown of the traditional family structure often is cited as a major cause of the feelings of alienation and insecurity that lead many youths into delinquent behavior. The easing of survival pressures aids delinquency prevention by fostering a feeling of optimism in parents. Parents with a sense of well-being about survival issues can devote more time to attending to their children's emotional needs and thereby reduce intrafamily tensions and disputes.

Most people, especially poor families, are not aware that there are resources other than welfare available to them. Nor do they know their own potential for increasing the availability and accessibility of resources. Government agencies, both State and local, should assume the responsibility for providing this information. Local government, in particular, could improve the quality and quantity of services by decentralizing the delivery of services to the community. Emphasis should be placed on community involvement to increase the accessibility and receptiveness to the services provided. Neighborhood service outlets with hours that accommodate citizen's time schedules will eliminate the problem of transportation. The selection of staff, who understand the needs of the community being served and with whom the citizens can identify and communicate, will encourage better utilization of the informational services by creating an approachable milieu based on trust. Information should be provided on such topics as the various ways a family might procure nutritious food economically, the availability of preventive and therapeutic health care services, the alleviation of housing problems, and employment and training.

Systematic dissemination of information regarding health, legal services, housing code enforcement, and day-care centers, for example, can be accomplished through effective use of mass media. Radio and television coverage of public hearings and official meetings and development of a public access television channel would make a large contribution to increasing public awareness of means available to meet basic family needs.

One example of a service to help families meet their basic needs is the San Francisco La Raza Information Center. This center operates several bilingual programs focusing on day-to-day needs of the Spanish-speaking community. The areas covered include legal aid and tutorial and media programs. The center also has a listing of all service agencies, handles welfare and job problems, runs a translation service, and publishes a monthly paper. Also in San Francisco is the Tenants' Action Group. This organization offers clinics on housing problems, rent increases, repairs, and landlord grievances, and provides an information handbook.

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5. Mulford, Robert M. *Protective, Preventive Services—Are They Synonymous?* American Humane Association, 1969.

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7. WHCC—*Report to the President.* Washington, D.C.: Government Printing Office, 1970.

8. WHCY—*Executive Branch Review.* Washington, D.C.: Government Printing Office, 1971.

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Related Standards

The following standards may be applicable in implementing Standard 3.7:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.6 Family—Nutritional Services
3.11 Education—Survival Education

Standard 3.8

Family—Day Care

Each community should establish day care and drop-in child care centers for appropriate children of all ages and for children with special needs. The centers should utilize community residents and other qualified personnel as staff members, and rely on community residents for direction in running the centers.

Commentary

Child involvement in delinquency often has been traced to parental neglect and lack of supervision. When both parents or the single parent must work to meet economic demands, children often are left to their own resources and denied the care, supervision and attention crucial to their physical and psychological development. This effect can be alleviated by the services of community day care centers, which are operated on a scheduled basis with a regular clientele, and drop-in centers, which accept babysitting cases on an emergency basis.

By enabling parents to work or continue school, child care centers contribute toward promoting better conditions for families and fostering their economic security. Provision of child supervision within a safe, nearby environment can reduce parental frustration, resentment, and anxiety about the safety of their young children. Child care centers also can help reduce feelings of neglect on the part of the children who are separated from working or otherwise occupied parents. Moreover, establishment of these centers can contribute to delinquency prevention by providing a direct source of employment for youth and instilling in them a sense of adult responsibility by charging them with the well-being of other children.

Day and drop-in child care services should utilize qualified community members as the supervisory staff and rely on potential clients for suggestions about the development and operation of the centers. Where applicable, services and activities, such as food, music, and stories should consider the diverse ethnic nature of the community, as well as the potential for enhancing the learning skills of young children. Child care services have the potential for fostering physical, intellectual, emotional and social growth, and should be coordinated with existing health, education, and welfare services in the community to help achieve the overall goal of promoting healthy and harmonious families.

Day care and drop-in centers for infants should be staffed by qualified personnel. The services provided should involve care and attention, feeding, changing diapers, and play that stimulates the infant's sensory and motor functions. Such centers also should deliver preventive health services to promote early detection, diagnosis, and treatment of divergences from normal child development.

Preschool and early elementary school-age care centers should make available arts and crafts supplies, toys and games, and story books that provide supervised opportunities for play and creative expression. Audiovisual programs should be used to enrich the program content.

Day care centers should be located in schools or community centers. Establishing day care services within high schools or adult education schools would particularly aid parents who are continuing educations that had been disrupted.

One approach to day care is the program now in operation in the Berkeley Unified School District in California. The district sponsors all-day child care centers at a number of schools. The centers include programs for pre-schoolers and for children in grades kindergarten through three. Children may stay at the centers for up to 10 hours each day. Meals are planned by dietitians and the parents pay on a sliding scale based on income. A variation of this approach is in operation in Atlanta, Georgia. There, as an aid to parents seeking new employment skills, a skills training center provides child care for the children of participating trainees.

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Related Standards

The following standards may be applicable in implementing Standard 3.8:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.9

Education—Integrating Schools Into the Community

Schools should expand their efforts to foster learning and education throughout the community. Interested groups and individuals from the community should participate actively in all aspects of school functioning.

Commentary

In many communities there is a notable lack of cooperation between the schools and other institutions within the community. School personnel are becoming increasingly isolated from the neighborhoods in which they work. And as the school becomes further removed from other aspects of the community, students increasingly perceive the curriculum offered as irrelevant and they begin to doubt the legitimate authority of school officials. Separation of school and community also represents a shameful waste of potentially positive relationships between education and all the residents of the community.

But schools can reverse this trend. They can play a major role in encouraging respect for learning and academic achievement within the community and can use community resources successfully to enrich school experiences for students and teachers. To do so requires a much broader definition of education—a definition that expands the scope of curriculum as well as the scope of persons involved in the learning process and the places where education occurs.

Too often it is assumed that schooling happens only on school grounds or within school buildings. This view ignores the growing number of community programs that encourage study and offer opportunities for academic achievement. Learning can and should take place in a variety of community settings. These should include day care centers, recreation centers, businesses, religious organizations, the facilities of community organizations, and the home. Moreover, there should be increased utilization of school resources after regular hours and during weekends to offer additional educational experiences to community residents.

School officials should collaborate with community members to expand the quality and quantity of learning within the entire community. School personnel can offer training programs and seminars to foster community education. Educational materials and sources of funding should be made available to community groups and agencies that want to develop collaborative educational programs with school officials. The emphasis should be on fostering continuous learning among community members, both children and adults. New programs should experiment with flexible scheduling and flexible use of facilities to maximize opportunities for community participation.

This broader definition of education means that a wider range of persons will be involved in all aspects of the learning process. Schools should allow for participation by community residents in meaningful, decisionmaking roles, such as curriculum development and program evaluation. Community residents should be used as instructors, teaching aides, and resource persons within schools. For example, local artisans or craftspersons could be invited to lecture to students and students could be taken to visit various persons at their places of work. Used in such a manner, community resources can be of crucial importance to successful career education programs.

Some school districts have recognized the wealth of community learning resources by creating schools without walls programs. These efforts use local museums, universities, scientific establishments, and businesses as places of instruction and study. Students are taught to use public library facilities and to develop their skills at learning in the community. The High School Without Walls in Philadelphia has had substantial success in motivating students who had previously experienced difficulties with regular school programming.

Community learning also can be encouraged by extensive use of internships and field placements for students in several academic disciplines. Development of an active work-study program can provide learning experiences for students as well as provide a basis for cooperation between school officials and various community agencies or organizations. School-sponsored forums or lectures on subjects of broad interest also can encourage communitywide learning. Students should be involved in the planning and development of these community forums as part of their learning experiences. Schools should lend their facilities and resources to community groups that wish to offer community educational programs of widespread interest.

Central to this concept of education throughout the community is a firm, cooperative relationship between school personnel and various segments of the community. Schools must view their role as one of service to the entire community and the community must perceive the availability to them of school personnel and resources on a continual basis.

The John F. Kennedy School and Community Center of Atlanta, Georgia, Thomas Jefferson Junior High School and Community Center of Arlington, Virginia, and the Whitmer Human Resources Center in Pontiac, Michigan, are three working examples of schools designed to serve the entire community. These schools mobilize the resources of the community and give encouragement and opportunity to diverse groups for self-help and improvement. The centers are planned, financed, and operated jointly by schools, other agencies, and the community for the delivery of education and social services to the entire community.

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4. Schafer and Polk. *Schools and Delinquency.* Englewood Cliffs: Prentice-Hall, 1972.

5. Silberman, Charles E. *Crisis in the Classroom.* New York: Random House, 1971.

Related Standards

The following standards may be applicable in implementing Standard 3.9:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.7 Youth Participation
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations

Standard 3.10

Education—Developing Comprehensive Programs for Learning

Schools should assume the responsibility for working with families to coordinate all efforts to assist students in achieving agreed-upon objectives of academic proficiency at each stage of their educational careers.

Commentary

Schools should develop comprehensive programs to assist all students to achieve educational objectives appropriate to each level of learning. A comprehensive system for helping students meet these sequential educational objectives requires a variety of efforts and approaches that can be coordinated by responsible school personnel together with the student's family. The first step in this process is to develop a consensus about the attainment of academic objectives at each level. Most school districts do not have written plans that specify the educational objectives of each sequence of learning, and the result is that both students and teachers are confused about the priorities of the learning process. It is crucial that such learning performance objectives not be produced in a vacuum, but that parents, teachers, students, and community groups be included in formulating these academic objectives together with school officials.

A program to assure all students maximum opportunity to meet educational goals should include a review of current methods of reaching these learning objectives and a determination of the relative merit of alternative instructional methods. There must be a review of student testing and evaluation procedures for students to determine if these techniques are producing useful information about student progress through the sequences of the learning process. Schools should determine if testing results are being used effectively to improve the educational experience of individual students. Improved methods for evaluating teachers, to determine which instructional methods and which individual teachers are having the most beneficial effect on student learning, also should be considered.

Schools should institute systems of periodic review of student progress that enable early identification of learning problems and that insure that remedial services are delivered to students falling behind in their work. This review process should be done jointly by classroom teachers, learning specialists within the schools, and personnel responsible for supportive services within the schools. Every effort should be made to involve parents in these systematic reviews of student progress.

Plans to equip every student with acceptable levels of academic skills should be reviewed and refined periodically. Constant pursuit of new methods of instruction and new techniques of supportive services for students in need of additional assistance is essential. The principle that schools have the responsibility to educate children whatever their backgrounds or learning styles should underline all programs. Consistent with this basic principle, schools should establish systems of sequentially organized learning experiences that permit the monitoring of student progress and provide whatever help is necessary to meet learning objectives on an individualized basis.

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4. Schafer, Walter E., and Polk, Kenneth. *Schools and Delinquency.* Englewood Cliffs: Prentice-Hall, 1972.

5. Weithman, Carl. "The Functions of Social Definitions in the Development of Delinquent Careers," President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 3.10:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.11

Education—Survival Education

Schools should institute reality-based curricula that enable students to respond successfully to the demands of living in contemporary society. Instruction in basic skills such as reading, verbal and written expression, and mathematics should be an integral part of this "survival education" program.

Commentary

It is now well recognized that young people require a wide variety of skills to live successfully in contemporary society. The speed of technological and social change requires that, to deal adequately with life situations, students be provided skills other than those ordinarily supplied by school curricula. Students whose school material is not relevant to the practical problems they face daily may conclude, correctly, that the content of their formal education is irrelevant and downgrade the importance of their participation in school. School curricula that do not offer students an educational experience related to the practical issues of modern life are destined to promote feelings of frustration and personal failure in both students and teachers.

The need for new skills, however, does not diminish the importance of instruction in the basic cognitive skills of reading, writing, and mathematics. There is a need to integrate the teaching of these basic skills with the practical information that students will need. For example, while students may need to learn how to survive in a highly technological society that emphasizes the use of computers, telecommunications, and video equipment, training to use this equipment often requires knowledge of the basic skills.

There should be several components to a survival education curriculum. In order to increase their employment prospects, students should be exposed more to the types of skills and professional training that are valuable in the contemporary labor market. In some areas, cooperative programs with local businesses and colleges or universities may provide the resources necessary for these types of learning.

Schools also should provide students with the skills to be intelligent consumers. Students should be offered courses in consumer education to assist them in making decisions about financial matters in their lives. These courses should include information about planning a personal budget, the use of credit, purchasing life insurance, and other personal monetary matters. It is important that students develop a realistic view of the likely costs of different career preparations, as well as the options available for financing career plans. Consumer education should provide students with the basic information they will need to make large purchases, such as houses or automobiles. And consumer education also should provide information on services, so that students become knowledgeable about the kinds of social services that are available to them.

Another component of survival education involves teaching students about how they can participate meaningfully in the political and governmental affairs of their communities. Courses should explore different types of involvement and include placements, internships, and field visits to learn about the political processes in their communities. Learning the interpersonal skills needed to work together with all segments of the community also should be emphasized, to enable active participation in the community. School programs can demonstrate to students the need for and value of working with diverse segments of the community for common objectives. Training in good citizenship is a crucial survival skill that may have a direct bearing on delinquency prevention.

Reality-based curricula should teach students how to formulate their plans and goals and then provide them with the skills to find the information they need to satisfy their personal objectives. Instruction should cover career planning and preparation, the constructive use of leisure, health and safety information, and material specially requested by students. It is important that students be given an active role in determining the content and nature of the survival education program, because such programming is supposed to satisfy their needs.

Survival education, reality-based curricula, and basic skills training should be components of the entire school operation. Special courses and educational programs, as well as extracurricular programs, should be offered so that students can enhance specific skills. The focus on giving students skills relevant to their lives should be reflected in the supportive services of the school. Such programs are greatly enriched by bringing the community into the classroom and promoting learning in the community. These programs must be constantly improved and altered to meet the changing needs and requirements of students. Well-planned and properly implemented survival education programs can add interest to school curricula and, at the same time, provide an incentive for students to participate actively in their own education.

Related Standards

The following standards may be applicable in implementing Standard 3.11:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.12

Education—Alternative Education

Schools should provide for alternative educational experiences that encourage experimentation and diversity in curriculum, instructional methods, and administrative organization of the learning process.

Commentary

Children enter the formal learning process with a wide diversity of learning experiences. To make school a truly educational experience for many of them may require employment of nontraditional resources and educational environments. There is a need to promote alternative ways to learn within the school setting rather than to insist that all students achieve within a regular program. Access to alternative education should be provided to all students, and it is crucial to the success of any alternative program that students involved not be stigmatized for their participation.

The goal of an alternative education program should be to fit learning experiences to the differing needs and interests of individual children. Alternative programs provide opportunities for changes and wider options for the child who is not reaching full learning potential within regular programming. Class size should be kept small to permit this type of instruction.

Some alternative programs could focus on multicultural awareness and bilingual education. Instruction in basic skills could be offered using current approaches or other innovative teaching methods. One approach to experimental education stresses community service and practical experiences tied to the classroom situation. Another learning method is the concept of family units, in which teachers remain with their students as they progress through grade levels.

Ongoing alternative educational programs have developed new curriculum material and involved community residents in the school program. Some schools have tried yoga as a teaching method because it was felt that some young adults needed a minimum level of instruction in basic skills but a maximum level of motivation. Students generally are encouraged to test various experimental possibilities and alternate among various learning situations.

Alternative education programs may be the answer for some students for varying amounts of time, and they do raise the possibility of introducing change and experimentation into school routines. But alternative education programs should not become an excuse for tolerating lack of imagination and growth within the regular program.

Participation in alternative programs should be made optional. These programs should not be used as a method for punishing students with behavioral problems or as a dumping grounds for students who are likely to fail within the regular curriculum.

Other standards in this chapter recommend and discuss a number of nontraditional approaches to education. Many of these, such as career education, the justice model, and the home as a learning environment, can be incorporated into experimental programs. But it is crucial that all experimental programs be carefully and fully evaluated to determine which methods have the most positive impact on learning.

Alternative education programs are now in operation in a number of school districts throughout the country. The Unified School District of Berkeley, Calif., has implemented some 30 alternative experimental school programs. Project KAPS (Keep All Pupils in School) in Baltimore, Md., attempts to modify the school day to prevent students from dropping out. The Drop-Out Prevention Through Performance Contracting Program in Texarkana, Ark., uses an accelerated learning center to focus on the development of basic skills.

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2. Broudy, Harry. *The Real World of the Public Schools.* New York: Harcourt, Brace, Jovanovich, 1972.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention.* Washington, D.C.: Government Printing Office, 1973.

4. National Commission on Reform of Secondary Education. *Reform of Secondary Education.* Charles F. Kettering Foundation. New York: McGraw Hill, 1973.

5. Sexton, Patricia Cayo. *School Policy & Issues in a Changing Society.* Boston: Allyn & Bacon, 1971.

6. Silberman, Charles E. *Crisis in the Classroom,* Random House, 1971.

Related Standards

The following standards may be applicable in implementing Standard 3.12:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.13 Education—The Home as a Learning Environment
3.14 Education—Bilingual and Bicultural Education

Standard 3.13

Education—The Home as a Learning Environment

Schools should initiate methods and techniques for enriching the potential of the home as a learning environment; children, parents, and school staff all should participate.

Commentary

Family support of the educational process is crucial to the learning experience. Countless studies have demonstrated that early learning patterns developed at home are one of the most important predictors of later school performance. In the past, a significant amount of a child's education took place in the home, but the advance of modern industrial society has driven these two centers of learning farther and farther apart. Thus, it is necessary to take affirmative steps to strengthen and expand the supportive bond between the home and the school. The development of Head Start programs and the growth of parent-teacher nurseries are examples of the growing concern to improve and coordinate the total educational experience of the child.

Development of the home as a learning environment is an effort to integrate the family with the school processes. Promoting greater involvement of parents in the learning process may facilitate early identification of academic or behavioral problems. Parents and schools can cooperate to provide continuity in the acquisition of moral education and the development of discipline. The use of the home as a learning environment also may foster positive relations between parents and children and between parents and school personnel. Parents will become more aware of their important and continuing role in education of their children.

There are a number of ways of promoting the interrelation of school and home. Utilization of parents as paraprofessionals within the regular school program and encouragement to secure their voluntary participation in all phases of academic programming should be considered. New emphasis should be placed on home learning, and, to this end, school officials should develop curricula that include distribution of instructional materials and supplies for home use. Special homestudy materials could be disseminated to augment an inschool reading program, for example. Joint efforts of parents and school personnel should be used to develop new teaching methods and techniques. These might include team teaching programs to train parents in educational methods and principles of child development, and special course offerings by parents. In some cases, it will be necessary to revise existing laws governing education to permit use of school resources for home learning programs and to permit more flexibility in assigning academic credit for work accomplished in such programs.

Parents may participate in the learning enterprise in a variety of roles, such as teachers, tutors, instructional aides or in the development and organization of curricular material. The home as a learning environment concept seeks to enhance the distribution of school resources in the earlier grades and develop supportive arrangements among parents and educational staff on behalf of children.

Several examples of programs using the home as a learning environment are worthy of note. A component of the Focus on Dropouts—A New Design, implemented in Paducah, Ky., is a home-school-community program designed to educate parents about the behavior of children and to develop better relations between parent and child. Baltimore's Project KAPS hires and trains parents to serve in a variety of capacities within the school context. The Berkeley, Calif., Unified School District and the Office of Human Relations operate a program to establish the home as a learning center. The Berkeley, Calif., Homework House Project, utilizing a coordinated network of community resources, aims to induce students, particularly minority students, to experience success rather than frustration in school.

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5. Hunt, Joseph McVicker. *The Challenge of Incompetence & Poverty: Papers on the Role of Early Education.*

6. Jencks, Christopher and Bane, Mary Jo. "The Schools & Equal Opportunity" *Saturday Review.* Sept. 16, 1972.

7. NAC. *Community Crime Prevention.*

8. Watts, Betty. "The Home Context" in *Scholars in Context: The Effects of Environments on Learning.* Edited by W. J. Campbell. Sydney, John Wiley & Sons, 1970.

Related Standards

The following standards may be applicable in implementing Standard 3.13:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.14

Education—Bilingual and Bicultural Education

Schools should develop bilingual and bicultural educational programs to improve ethnic relations and provide relevant instruction for those students who speak English as a second language.

Commentary

Bilingual and bicultural education may help prevent delinquency by reducing frustrations among children who possess inadequate English language communication skills or who speak a language other than English. Such programs also hold the potential for helping to develop positive self-images and to alleviate some of the school difficulties that derive from language and cultural conflicts.

Bilingual and bicultural programs give support to minority youth and promote mutual respect among different ethnic groups. This effect alone may reduce tension and conflict among students and between students and teachers. By reducing feelings of alienation within the school setting, such programs also may directly reduce vandalism and interpersonal violence on school campuses.

Effective bilingual and bicultural programs in schools will require the involvement and cooperation of school personnel. To promote this goal, schools should strive to hire teachers and aides who come from bilingual, bicultural backgrounds. Schools also should find ways to use the many other valuable resources that surround them—the parents, students, and other people in the community who come from varying cultural backgrounds. Part of the educational process should be to introduce students to people who represent positive role models for different cultural groups. These could include people with interesting histories, unusual hobbies, or worthy achievements, or even people who are simply good storytellers. This exposure will help to develop group and personal pride and alert students to opportunities for expression that they may believe are closed to them.

Public schools should respect the different cultures of their students. Their goal should be to enrich the cultural experiences of all students rather than to provide remedial services to a few. This will involve instruction in English and other languages, with an emphasis on appreciation of cultural diversity, so that all students can increase their communications skills while maintaining their cultural identities. Efforts to bridge cultural differences may include cultural enrichment programs, special celebrations of ethnic holidays, serving diverse cuisines in school cafeterias, and expansion of library collections. In sum, successful bilingual and bicultural programs should become part of the regular school program.

Efforts in this direction already are underway in some areas. Several communities, such as Coachella, Oasis, and Mesa in southern California, have attempted to implement fully bilingual programs in their schools. Another bilingual effort, in Rough Rock, Ariz., was instituted among Native American school children. Some inner-city school districts in the Northeast have developed bicultural programs. The Berkeley Unified School District in California uses classroom aids, special curriculum material, and stresses ethnic pride and intergroup respect.

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5. Valencia, Atilano A. *Bilingual-Bicultural Education for the Spanish-English Bilingual.* Las Vegas, New Mexico Highlands University Press, 1972.

6. Von Maltitz, Frances Willard. *Living & Learning in 2 Languages: Bilingual-Bicultural Education in the U.S.* New York: McGraw Hill, 1975.

Related Standards

The following standards may be applicable in implementing Standard 3.14:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.15

Education—Supportive Services

Schools should provide a full range of supportive services for all students, and particularly for those students experiencing adjustment problems within the regular school program and structure.

Commentary

Supportive services are aimed at helping students achieve their full academic potential, and include a wide range of assistance. In the past, the primary focus of supportive services has been on counseling, but this concept should be expanded to include educational and social services.

The unit approach, in which assistance is individualized with a focus on the child rather than on a particular set of symptoms, should govern delivery of supportive services. Difficulties in completing homework assignments, for example, may be due to a number of factors in the child's life. All of these factors must be considered in a total program of supportive aid. Such a program may include eye examinations and discussions with parents about the home study environment or personal conflicts that the child may be experiencing, either with adults or other children in his or her world. School difficulties, if not properly analyzed, often may lead to increased tension and frustration among parents, teachers, and the child. This situation may promote overt rebellious behavior by the child or misinterpretations of motivation by everyone. Under such conditions, school problems may grow into delinquency problems.

Supportive services should include testing and diagnostic services in psychological and learning areas. Counseling should include career guidance, student placement advising, and personal counseling. Adequate plans should be established for the provision of professional care if warranted. Educational services should include academic planning, remedial programs in the basic skills areas and tutorial assistance. Supportive services can include health, legal, and welfare counseling and delivery of services, such as medical and dental screening, consumer information, or other activities that can be delivered most effectively within the school.

Supportive services also may include activities that support students' ideas or interests. A number of programs that encourage students to explore their skills and creative abilities could be instituted. Too often students play a passive role in school or feel lost within the large, crowded school setting. Staff could be trained to develop methods to organize students who share similar interests, and to arrange meetings between students and adults who may be of special interest to them. For example, students interested in performing arts or design arts would benefit from contacts with artists from within and outside the community who can offer encouragement as well as career advice to them.

Individualized supportive services should be provided. Help should be extended to both parents and staff, because some problems are not within the realm of an individual's power to solve alone. Nevertheless, schools should not attempt to provide all services to their students, but there should be a special effort made to coordinate school service programs with programs offered by other community agencies.

Effective supportive services require that schools employ personnel who are well-trained and sensitive to diverse student needs in order to identify early problems that may interfere with the child's full potential for learning. Schools should enrich current inservice training programs to make all staff fully aware of the range of supportive services available to aid their students. Schools also should work toward enhancing the quality of supportive services to children in all grade levels. Methods and techniques employed in supportive service programs should be evaluated periodically and upgraded as necessary.

A number of supportive service programs are already in existence. A long-term project of education improvement in the Durham, N.C., schools has produced a method for diagnosis and treatment of student differences. The Child Advocacy Demonstration Project, supported by HEW, offers other useful models. These are now operating in Prince Georges County, Md., and in the cities of Los Angeles, San Antonio, Philadelphia, Durham, and Nashville.

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Related Standards

The following standards may be applicable in implementing Standard 3.15:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.16

Education—Problems in Learning

Schools should develop programs to diagnose and provide appropriate programs to deal with learning problems in children. Teachers should be given training in early identification of specific learning problems.

Commentary

Many delinquency researchers have shown a statistical relationship between school problems and subsequent delinquent behavior. Studies in a number of States have shown significant academic underachievement in their delinquent populations. For example, of a sample of 129 adjudicated delinquents from Connecticut and Virginia State institutions, only one child was functioning at the grade level corresponding to his chronological age.

There appears to be a growing body of evidence that there is a large number of youngsters who have difficulties in school because of specific learning problems that could have been corrected through early diagnosis and treatment. The evidence indicates that physical or emotional handicaps are primary factors in the cases of many children who have been labeled lazy, inattentive, easily distracted, academically backward, socially awkward, or who exhibit aggressive behavior or who are extremely withdrawn. In many cases, a teacher is able to discern that a child has normal learning potential that is being impaired by a specific learning problem. Teachers who fail to recognize a specific learning problem, however, may compound the difficulties of a pupil through inappropriate responses to the student's educational performance. Children with learning problems may experience deep feelings of failure and inadequacy when pressed to perform tasks that are beyond their ability.

Teachers should receive training in the etiology of learning problems, thereby increasing their ability to refer children early for diagnostic testing. Teachers should be given accurate and scientific information about the learning process, so that stereotypes or false impressions do not limit their ability to provide positive support for children experiencing learning problems. Experts in diagnosing learning problems stress that a child must be evaluated in terms of how he or she functions in the school setting, and not solely on the results of clinical tests. The teacher plays a critical role in this evaluative process, as well as in the eventual development of treatment plans.

School districts should have teams of physicians, neurologists, and psychologists to perform diagnostic testing of children who exhibit learning problems. In addition to diagnostic teams, schools should have multidisciplinary teams composed of health professionals, teachers, special education specialists, counselors, and social workers who can work together with the child and its family toward developing a suitable program for treatment and remediation of learning problems. The multidisciplinary team should not focus merely on the symptoms of a particular learning problem, but on the whole child and should develop educational plans appropriate to the need of the individual child.

It is important to analyze the total learning situation of the child to determine if learning difficulties stem from personal problems or if the cause involves teaching methods and materials that may be inappropriate for the individual child. Schools should adopt a strong burden-of-proof rule before they impose a label on a child, because the label may cause more harm than good. Misdiagnosis can have extremely detrimental effects on a child, whether the diagnosis is falsely positive or falsely negative. Ideally, diagnostic categories should flow out of a theory. Classification schemes for learning problems should be tied to this theory, and definite means for measuring student progress in treatment programs should be developed. Classification categories should be descriptive of the characteristics of individual programs, and these labels must be made relevant to treatment objectives; it makes no sense to diagnose learning problems using terminology unrelated to a concrete plan of action. There also must be a program for regular retesting to prevent labels from sticking to children long past exhaustion of their diagnostic value.

Plans should be made to increase the capacity of communities for taking part in the treatment of children with learning problems. The involvement of parents, together with education and health professionals, should be an important part of program planning at local and statewide levels. Every effort should be made to insure that parents and children understand the nature of learning problems and the kinds of treatment that may be suggested by school personnel.

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2. Hobbs, Nicholas. *Issues in the Classification of Children.* Vol. I and II, Jossey-Bass, 1975.

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Related Standards

The following standards may be applicable in implementing Standard 3.16:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.17

Education—Learning Disabilities

Schools should develop special education programs for children exhibiting learning disabilities. States should review and, if necessary, amend their State educational codes to permit more flexibility for providing necessary resources and services for children with learning disabilities. States also should establish commissions to review and update the classification schemes of their special education programs.

Commentary

In recent years, a great deal of literature in the area of learning problems has focused on children who, due to neurological problems, have difficulties in organizing intentional behavior and focusing attention. Such children often are identified as having learning disabilities. Professionals in both education and the behavioral sciences and an increasingly large segment of the public are now voicing their concern that society traditionally has applied inappropriate labels, including the label of delinquent, to youths whose problems actually stem from learning disabilities.

Definition of the term "learning disability" itself has been the subject of tremendous debate. Most of the disagreement has been over which specific dysfunctions the term should encompass. Experts have, however, reached agreement on some parts of the definition. It is generally agreed, for example, that the term learning disability should be used in referring to children who, due to neurological impairments, have deficits of a behavioral nature, such as in perception, conceptualization, thinking, memory, speech, and in skills, such as reading, writing, spelling, and math. A learning disability should be specific in nature and cannot be attributed to generalized handicapping conditions, such as general mental retardation, sensory handicaps, emotional disturbances, or behavioral problems resulting from environmental stress. Children who have been formally classified as brain-impaired, perceptually handicapped, dyslexic, or aphasic generally are included under the term.

In addition to the definitional problems, the lack of adequate screening mechanisms to test for learning disabilities has prevented the formulation of data-based assessments of the prevalence of the problem among the nation's youth. Some professionals feel that actual learning disabilities are rare phenomena, while others point to the lack of diagnostic programs as the reason for the currently perceived low incidence of the problem. Moreover, many commentators have pointed to undiagnosed and untreated learning disabilities as a primary factor in producing behavior in children that becomes identified as delinquent.

There is no question that our knowledge of the causes and incidence of learning disabilities is limited, and that much work remains to improve terminology and classification schemes. But there is growing evidence of the pressing need for schools to vastly improve their programs for early identification and treatment of learning disabilities. These special education programs can be very expensive, both monetarily and in terms of personnel resources. There is little question, however, that increasing the attention and assistance to children with learning disabilities and all other learning problems, will contribute to a total program of delinquency prevention.

At present, many States have antiquated educational codes that make it virtually impossible to provide adequate diagnostic or treatment services for children who may suffer from a learning disability. For example, some State codes require that a child be certified as mentally retarded before funds are made available for programs of remediation for children with learning disabilities. Special education services often are constrained by restrictive State codes that are not relevant to the actual learning problems of school children. The impact of these poorly designed educational codes is to deny services to some children while causing inappropriate labels to be given to other young people.

Where necessary, revisions should be made in State educational codes to permit more flexibility in staffing, treatment approaches, and educational programs for children experiencing learning disabilities. State funding patterns should encourage innovative approaches and not force children to be labeled by statutory categories simply to allow schools to qualify for funding resources. It is axiomatic that legal codes should not interfere with appropriate educational methods for discovering and treating children with learning disabilities.

States should establish commissions to review and update special education classification schemes, so that they reflect the most recent scientific data. States should insure uniformity of diagnostic and classification procedures throughout the school districts. Research should be done to determine accurately the nature and incidence of learning problems in each State and this research should form the basis for resource allocations for diagnosis and treatment. This research should investigate the connection between learning disabilities and delinquent behavior.

A number of groups across the Nation are performing studies on learning disabilities and delinquent youth. The Oklahoma Association for Children with Learning Disabilities and the Sonoma County, California, Probation Department are engaged in valuable exploratory studies on this problem.

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Related Standards

The following standards may be applicable in implementing Standard 3.17:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.18

Education—Teacher Training

School authorities should develop or improve methods of teacher training, certification, periodic recertification, and accountability. Closer cooperation with universities, colleges, and other school districts is crucial to upgrading the quality of classroom instruction.

Commentary

The relationship of the teacher to the child is the core of most educational systems. Innovative curricula, experimental programs, and new teaching equipment cannot replace the central role of the teacher in the learning process. In fact, the teacher may be the most important agent of delinquency prevention in the schools.

Teachers often are the first persons to recognize academic and behavioral problems. In handling them, they may be supportive and lead the student toward solutions; or they may compound problems by responding inappropriately. Teachers may be a source of help and guidance or a locus of frustration and rejection. No program of delinquency prevention in the schools can ignore the potential for good or for ill that exists in child-teacher relationships.

Developing improved systems for teacher training, certification, and accountability may have a significant impact on delinquency rates if these efforts are guided partially by the goal of delinquency prevention. Many areas of teacher training might be improved to prepare teachers better to help children in trouble. Teachers must become more aware and tolerant of the cultural backgrounds of their pupils. They must become more aware of the various possible explanations for disruptive behavior or poor performance in the classroom, and of the ways that they may be unwittingly stigmatizing or diminishing the personal worth of their students. Teachers should become more aware of the important role they can play in developing positive self-esteem and attachment to conventional values.

Suggestions for improving the quality of classroom instruction may include a broad range of programs. Teacher-training institutions constantly should evaluate and improve the quality of their offerings. Certification processes should reflect the needs and requirements of real life situations in the schools. State certification bodies should review and update their licensing procedures. Much greater emphasis should be placed on practice teaching as a part of the training experience. Inservice training should be increased with sufficient inducement to promote an atmosphere of continuous professional development. Schools should encourage exchange of information in an attempt to discover the methods and techniques used successfully, and should attempt to replicate these models throughout the educational system.

Teacher evaluation processes should be designed to upgrade the quality of teaching and not serve simply as systems for personnel control. School districts should adopt educational plans and translate these plans into tasks and standards for teachers that can serve as the basis for evaluation. Parents and students should be afforded constructive and meaningful roles in the evaluation process.

Teachers should be introduced to the communities where they will work. New instructors should tour the local neighborhood and meet local merchants, community workers, and parents. This introduction should be part of the process of making the school relevant to the surrounding community. This simple step might reduce a great deal of the initial fear of novice teachers and also disclose potential community resources to deal with the needs of specific students.

Several ongoing teacher-training approaches are worth exploring. Family Services of Berkeley, Calif., conducts a program to sensitize teachers to the special backgrounds of students and their families. California's Stull Act urges every district to submit a plan of standards and goals for the objective evaluation of teacher performance. Project KAPS in Baltimore provides inservice training for teachers. Focus on Dropouts in Paducah, Ky., offers an extensive training program to equip teachers with skills to build student self-concept.

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Related Standards

The following standards may be applicable in implementing Standard 3.18:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.19

Education—Utilization of School Facilities

School officials should strive to develop a community school concept by promoting total utilization of school facilities and resources.

Commentary

Every community has at hand an immediate and effective resource for reducing its delinquency problems. This usually overlooked resource is the availability of its existing neighborhood schools. Full utilization of these schools offers the potential for a wide variety of community programs that can build a bridge of cooperation between educators and residents as part of the total educational effort.

Most school facilities presently are underutilized. They generally are used only for the limited number of hours that schoool is in session. Such wasteful use of public space can no longer be tolerated in communities that desperately need facilities for meetings, evening classes, recreational programs, and adult education. Classroom space and other school facilities can provide settings for the development of community programs in education, health, social services, and recreation.

After hours use of school facilities by community residents promotes the feeling that the school is an integral part of the community and gives the residents a stake in the security and value of this public property. It can lead to more parental involvement in regular school activities and may provide a means to encourage young dropouts to gradually reintegrate into the educational process.

Development of community school programs should include an assessment of what community programs are most needed and an inventory of available space and resources. The nature and extent of programming then should address the needs that are unique to a particular community. The programs themselves can benefit from the imagination that school and community groups can bring to the planning process. Some suggested programs have encouraged that schools operate on a 12-month, 7-day-a-week basis. Such programs could include regular school personnel who might, through their participation, gain better rapport with their students and community residents. One model for implementing this standard is for school officials to contract with a community organization to supervise facilities and maintenance services during after hours use, with one or two school officials paid to administer the programs.

There is evidence of widespread interest in the concept of total utilization of school facilities, and many school districts are currently experimenting with their own models. A community group in North

Philadelphia, Community Concern 13, uses a local junior high school from 3 p.m. to 6 p.m. each weekday. School facilities also are open all day Saturday. Community volunteers and local youths operate a full recreation program. Classes are offered in black history and culture, various handicrafts, and basic literacy skills. School facilities also are used for neighborhood meetings, health screening and a community performing arts program.

These programs are attracting many neighborhood youths who are involved in gangs or other forms of delinquency. But community leaders believe that these after-school programs have an even greater impact on younger children, by providing them with constructive activities as well as the feeling of belonging to a cohesive, caring community.

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3. NAC—*Community Crime Prevention.*

Related Standards

The following standards may be applicable in implementing Standard 3.19:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.5 Inventorying Community Resources
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.6 Achieving Coordination and Cooperation of Delinquency Prevention Programs
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.9 Education—Integrating Schools Into the Community
3.10 Education—Developing Comprehensive Programs for Learning
3.30 Justice System—Citizen Efforts to Prevent Delinquency

Standard 3.20

Education—The School as a Model of Justice

Schools should serve as models of justice by adopting policies that reflect democratic principles in their organization and fairness in the rules and regulations governing conduct.

Commentary

Schools provide their students with an opportunity to learn about the principles that should govern individual and group relations. If students are to learn respect for legitimate authority and law-abiding behavior, schools must be models of justice. Arbitrary rules and unfair decisionmaking processes lead to alienation and cynicism, which may contribute to the development of attitudes consistent with delinquent behavior. If students are shown that decisions are made solely on the basis of power, it is not hard to imagine how this learning experience can influence them toward delinquency. It is difficult to prepare young people to participate in a democratic society if their learning environment is organized along strictly authoritarian lines.

Development of a justice model in the schools enhances individual self-esteem, gives young people a stake in the model, and encourages them to develop positive opinions about law, citizenship, and intergroup relations. But many school authority systems have been described as models of injustice. Some have charged that schools resort to arbitrary practices that exert unnecessary controls on students. Dress code regulation often is cited as an example of over-supervision of youth. Schools sometimes utilize irrational and strictly punitive measures to control students. Students sometimes are searched or questioned without respect for individual rights. Often, students are excluded from decisionmaking processes, rules are not fully explained to them, and the basis for authority within the school setting is left ambiguous. This enforces the idea that the pupil must play a passive role in the educational process.

Making the school a model of justice requires full participation of the total school community in the teaching-learning process. Programs that permit students to examine the principles of justice and morality of other cultures might be worthwhile. There should be a Student Bill of Rights and Responsibilities to foster respect for law through actual school experiences. Provision for a student advocate or ombudsman to help students meet their needs and resolve their conflicts within the school bureaucracy also should be considered. Schools should encourage student participation in the formulation of dress codes, student publications, and student discipline. The codes and curriculum then should reflect the input of this participation; good feelings about self or others cannot be promoted when students' opinions are solicited and then dismissed. In general, rules should be kept to the minimum required for protection from injury to persons, disruption of the learning process and damage to property.

School officials should review rules regarding suspension and expulsion to insure fair and impartial hearings in these matters. Out-dated rules should be eliminated. For example, many school districts expel or place restrictions on pregnant adolescents who wish to remain in school. Such policies are indefensible and may lead to student reaction that includes rebellious and delinquent behavior.

Many school jurisdictions in the Nation have adopted legally valid bills of rights for students that guarantee student freedom and protection against improper behavioral standards. Examples are the Seattle Public Schools *Statement of Rights and Responsibilities,* the Philadelphia School District *Bill of Rights* and the Delaware State Board of Education *Student Rights Policy.* At the John Adams High School in Portland, Oregon, the student body democratic constitution provides for a continuing legislature with representatives chosen by the students. The student-administration council at the Clawson School in Oakland, California, holds frank discussions weekly with the principal about student problems and affairs. Feedback to and input from the student body are facilitated by a communications network that allows for vertical and horizontal flow of information. Tangible reward systems, such as those developed by the Educator Training Center, SWF Associates, Incorporated, of Los Angeles, and the Hillcrest Children's Center in Washington, D.C., also should be explored.

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Related Standards

The following standards may be applicable in implementing Standard 3.20:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.2 Police Responsibility in Protecting Integrity of the Law
6.4 Police-School Liaison

Standard 3.21

Education—Career Education

Schools should provide the basic components of career education for all students.

Commentary

Most delinquency theorists believe that expanding legitimate opportunities for youth is crucial to delinquency prevention efforts. One of these opportunities is the chance at a worthwhile career. Youth who are optimistic about their chances to obtain a decent job and meet their career objectives develop a stake in conformity. Accordingly, one promising strategy for delinquency prevention is to provide career education that relates education to the world of work. Career education programs permit students to move between the world of work and the world of school and to have their experiences enriched through participation in both worlds.

Career education programs should be designed to permit students to experiment with different careers and to gain practical experiences in specific areas of work. This might be accomplished through work-study programs or field placements, which also might provide an additional source of income crucial for those families facing economic hardships. Field placements or work-study programs also provide youth with positive role models from the world of work, and can supply students, teachers and school counselors accurate and timely information about job placement possibilities.

Schools should coordinate efforts in career education with local community colleges that may already have experimented with different educational techniques and approaches in this area. Career education also should be introduced in the lower grades, and all schools should utilize community business, industrial, agricultural, and professional resources (both facilities and personnel) to enrich program content. Provision should be made for work-study programs, internships, and on-the-job training for all students.

Schools should strive toward guaranteeing students adequate preparation for placement in entry-level positions or continued preparation for higher levels of career placement. The curriculum should represent a reasonable balance with academics. It should reflect the relevance of career exploration and perhaps a modern version of the apprenticeship system. Instruction in basic skills, such as reading or mathematics, should be made relevant to potential uses in career preparation. Job placement services should be developed for those students interested in work.

In the last few years there has been a wide range of effort and experimentation in the career education area. The U.S. Office of Education has disseminated information on a number of apparently successful efforts. The University of Georgia is developing teacher training methods to encourage career education. The State of Maryland has developed a mobile unit to service rural school districts. The Seattle School District has attempted a comprehensive career education program. And there are numerous other projects around the nation. Each aims to identify key skills that are important to specific occupations and to teach these skills to youngsters through classroom instruction and practical experience.

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6. White House Conference on Youth.

Related Standards

The following standards may be applicable in implementing Standard 3.21:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.11 Education—Survival Education
3.12 Education—Alternative Education
3.23 Employment—Community Job Placement and Information Centers
3.24 Employment—Employment Counseling and Work-Study Programs
3.26 Employment—Job Opportunities for Youths With a History of Delinquency
6.4 Police-School Liaison

Standard 3.22

Employment—Expansion of Job Opportunities

All levels of government should initiate or expand programs that develop job opportunities for youth. A comprehensive employment and manpower strategy should be employed that includes maintaining a larger number of available jobs, job training, and the elimination of discriminatory hiring practices.

Commentary

Many researchers have cited unemployment and underemployment of youth as a major factor contributing to crime and delinquency. And virtually all sociological and social psychological theories of delinquency mention emploment as a significant factor in the prevention of delinquent behavior.

One reason for this consensus is that most social scientists agree that the chances that a person will play a nondeviant role in society are determined largely by how that person has been socialized. Research has found that this socialization process—learning how to perform as orderly and moral beings—is much more important in controlling behavior than threats of punishment alone. Employment generally is recognized as an important part of this socialization process.

In our society, to be gainfully employed is the norm. Therefore, having a job integrates a person into the dominant social structure, gives a person a stake in legitimate social order, and acts as a check on behavior. Youths who are not employed see themselves as less than full members of society. As such, they have less of a stake in obeying laws and are more likely to engage in delinquent or criminal behavior.

Almost all youths in our society are taught to aspire to the goals of economic and social success. And a basic value in our society is that anyone can achieve these goals through hard work and conformity to rules. But at the same time, jobs, the socially accepted means to these goals, often are withheld from many youths because of race, sex, or age discrimination. With their aspirations blocked by what they perceive as social injustice, some youths build up a dangerous store of hostility and resentment, and this alienation is one motivation for the use of illegitimate means to achieve their objectives.

Research does not indicate that unemployment by itself causes delinquency, but the high correlations between participation in delinquent and criminal behavior and unemployment and underemployment suggest that, inability to obtain work may, indeed, be a major factor in producing this behavior. Supplying youths with employment may give many of them a larger personal stake in conforming to the behavioral norms of society.

There are three major components to a comprehensive employment and manpower development strategy. These include expanding the number of employment opportunities, developing job training and manpower development programs, and removing the barriers that unjustly exclude persons from obtaining productive employment.

Expansion of job opportunities means creating new jobs and maintaining high rates of employment. One approach to achieve this goal is for government to adopt policies that keep the aggregate level of demand high. This assumes that the normal workings of the market economy will translate initial economic stimuli into more jobs. As part of this approach, one might advocate fiscal and monetary policies that promote real growth in the gross national product. A variation on this strategy is for government to provide direct tax inducements to employers who create new job opportunities, especially for groups with high rates of unemployment. Still another approach is to create public service jobs and to make government the employer of last resort. Whatever the approach, programs to increase the number of jobs require complex analysis of the current state of the economy, and the search for solutions must include all avenues in governmental and private sectors.

Another facet of a jobs program is provision of job training. An example of a successful attempt to fill this need is the National Job Corps Program. This program offers vocational training to youth together with remedial education to improve reading skills, courses leading to a high school equivalency certificate, and medical services. Individual and group counseling are provided to improve each individual's self-concepts and raise their motivational levels. Recent data indicate that Job Corps programs are experiencing a good deal of success in job placement of enrollees, in encouraging careers in the military service, and in motivating youth to continue their educations.

The comprehensive services of the Job Corps are well suited for youths who present many problems, who are most likely school drop-outs and who need direction and support to orient them toward upward mobility and employment. But most youths, even those from disadvantaged backgrounds, can be trained for employment without the extensive remedial services provided by programs such as the Job Corps. A large number of these youth, however, need a better orientation to the world of work and specific training to obtain work skills. Community-based manpower organizations have been successful in combining these two tasks. The Opportunities Industrialization Center (OIC), Service, Employment and Redevelopment (SER), and the National Urban League have been funded to provide job training on a national scale. These organizations have mounted efforts to assist their community-based affiliates in providing extensive manpower programs.

Whenever possible, training opportunities should be developed in collaboration with potential employers and labor unions. An example of this kind of cooperation is the National On-the-Job Training (OJT) Program. This program provides on-the-job training, as well as classroom instruction for unemployed and underemployed persons. It is estimated that 80 percent of the persons trained in this program were retrained in jobs related to their training. The Apprenticeship Outreach Program (AOP) is structured similarly to OJT. Project staff in AOP assist their clients in qualifying for placements in industry-sponsored apprentice training programs. In most cases, placement entails membership in a local skilled trade union.

Elimination of all artificial barriers to employment is a critical component of a comprehensive employment program. Many employable people are excluded from jobs because of racial, sexual, or age discrimination, and both employers and unions have been guilty of practices that have limited the employment prospects of specific groups. Although there are laws specifically aimed at eliminating such discriminatory practices, there are too many current examples of persons who have been unjustly blocked from productive employment. Information regarding legal requirements in the employment area should be disseminated both to employers and job seekers. At the same time, provision should be made for more effective enforcement of existing statutes.

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6. White House Conference on Youth.

Related Standards

The following standards may be applicable in implementing Standard 3.22:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.23

Employment—Community Job Placement and Information Centers

Each community should have at its disposal highly visible and easily accessible job placement and information centers. Each center should have staff who are familiar with special employment problems faced by youth who may not be in school. Where feasible, existing public agencies should be required to provide these services.

Commentary

The high unemployment rate for youth, and especially for members of ethnic minorities, is discouraging in itself. The unemployment rate, however, does not reflect the true extent of the problem of lack of participation by youth in the labor market. A large number of young people constitute the hidden unemployed. This group is composed of individuals who desire a job, but have become so discouraged with the job searching process that they no longer seek work actively. Often, these young people have left school because they thought that full-time rather than part-time employment would be easier to find. They do not apply for unemployment insurance and no longer appear in official unemployment statistics. This sort of alienation among those youths who have lost hope of ever obtaining traditional roles in the legitimate working world may contribute to the decision to engage in delinquent behavior.

Youths often must travel great distances to existing public agencies, where many times they find that few jobs are available to them or that the available jobs are of the dead end variety. In many instances, employment agency staff are faced with so many adult job seekers that they offer only cursory, impersonal advise to young people. For many youths, this feeds their alienation, because they perceive that employment agencies do not really understand their problems and do not really care about their future employment.

To encourage young people to enter and remain in the job market and perhaps continue their education, employment services should be offered in familiar neighborhood surroundings that can be reached without extensive traveling. Job seekers should be able to record their abilities and interests at this employment center and should be able to discuss, at length, the possibilities for obtaining their employment goals. Also, employers should be able to register their employment opportunities with these employment centers and receive information about youths seeking employment in the fields for which they have listed job openings. Job sharing, where two or more persons work part-time and together fulfill a full-time position, also might provide an answer for some youths.

Structurally, there are two possible ways of organizing job placement and information centers: A community can deal with all employment issues at one or more specialized centers, or it can incorporate these services into a larger multiservice center, which provides a broader range of human services.

In addition to distributing information on job openings, staff at the employment centers should be able to discuss with youths the available job training programs for which they may qualify. Staff members should be well informed about the employment needs of both the community in which they operate and the national job market.

In many communities, youth interest in continuing their job search can be maintained through expansion of the services provided by existing public employment services. During fiscal year 1975, 52 localities placed such a plan into operation through the Employer Services Improvement Program (ESIP). ESIP involves use of a local employment service that incorporates the suggestions of an ad hoc committee of selected employers as a basis for a plan of action to improve services. ESIP activities have resulted in better communication between employers and employment service staff and improved procedures for taking job orders. The program also has utilized radio and television public service announcements to enhance the image of the local employment service in the community. A similar program that deals with employment services is the National Employers' Committee (NEC). NEC has been responsible for the reorganization of employment services in six major metropolitan areas—St. Paul, Chicago, Detroit, Philadelphia, New York, and Houston.

For some communities, the employment problems of its residents are unique so that securing relief from existing agencies is difficult. An example is a community that is heavily dependent on one industry for the bulk of job opportunities. In this case, State or local governments, as prime sponsors of funds for the Comprehensive Employment Training Act (CETA), should fund community groups to seek alternative solutions to the existing lack of job possibilities.

Reference

1. Harrison, Bennett. *Education, Training, and the Urban Ghetto*, John Hopkins Press, 1972.

Related Standards

The following standards may be applicable in implementing Standard 3.23:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.24

Employment—Employment Counseling and Work-Study Programs

Each high school should have counselors trained in employment counseling. Counselors should develop with local employers opportunities for meaningful employment during a student's nonclassroom hours. Public financing should be provided for high school work-study programs.

Commentary

In recent years, high schools generally have offered academically oriented counseling that focuses on the continuation of education into college. Students not bound for college often choose a "general" course, which neither prepares them for academic study nor equips them sufficiently with the skills they need to enter the job market. Consequently, students who terminate their formal education with high school find that they have insufficient training for most employment and a lack of knowledge of the working world. The continuing experience of futile job searches and the frustration of receiving less than relevant advice and inadequate preparation produce, in some youth, the resentment and hostility that provide the rationale for violating laws.

There is a need for vocational counseling programs to help students adjust to entering the labor market. Counselors should have full knowledge of the problems faced by this prospective member of the work force. In addition to advising students about the demands and opportunities of the labor market, counselors should be aware of the interests, needs, and aspirations of the students they counsel. A counselor should be able to assist students in developing curricula that lead to careers consistent with their interests.

A student's ability to assess the changes that entry into the work force will bring can be enhanced by actual participation in a job setting. It has long been recognized that the benefits of practical work experience are an integral part of the educational process. Academic subjects often become more relevant when the student is able to see clearly the practical application of classroom instruction. The career planning process becomes more meaningful as a student gains a realistic view of what working is about.

Transition from the role of student to the role of worker is difficult for many youths. A great deal of the anxiety can be reduced, however, if students continue in a work situation that was developed while they were still in school. Counselors should make every effort to develop relationships with local employers who will provide students with both training experiences and opportunities for permanent employment upon completion of studies.

For many students, the ability to supplement personal or family income while they are still in school may be just as important as the educational benefits that they may derive from a work-study program. Students who believe they must drop out of school for financial reasons may be able to continue their education if funds are available through work-study programs. It is doubtful, however, that the private sector or existing public agencies, under current levels of funding, could absorb the cost of providing a work-study oportunity for all students in need. Currently, public financing of vocational programs for youth is concentrated in agencies outside of the school setting. Few oportunities exist for youth who wish to continue their high school education while working part-time. Increased public financing may be extremely beneficial in subsidizing the cost to employers for hiring youth in work-study situations.

One model to explore is the College Work-Study Program, which provides employment opportunities during both the school year and the summer to students enrolled in colleges throughout the Nation. Jobs in the public and private sectors are made available through partial subsidy by the Federal Government. Another model is the Philadelphia Urban Coalition, which established the "High School Academies Program." Through the cooperation of the school and business communities, this program makes possible on-the-job training to supplement classroom work, summer jobs for trainees, and full-time employment for academy graduates.

Reference

1. White House Conference on Youth.

Related Standards

The following standards may be applicable in implementing Standard 3.24:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.25

Employment—Summer Programs

Each community should expand summer employment opportunities available to youth. Agencies coordinating efforts to place youths in summer jobs should be staffed on a year-round basis. In addition to placement activities, agencies should provide counseling and guidance services.

Commentary

Each summer the ranks of the unemployed are swelled by a large number of teenagers seeking jobs during their school vacations. The inability of youths to find jobs often produces frustration and financial hardship, which in turn may lead to delinquent behavior. Recognizing this problem, many cities and towns have set up systems to promote employment of youth in the summer, but rarely, have localities instituted programs that have long-range goals to use the summer work experience to prevent future employment problems. Often, the staff of these programs are themselves summer or part-time employees. Staff members of these programs usually have no special skills that enable them to help young people obtain what is for many youth their first work experience. The result is that even when programs are successful in providing job placements, the youths are sent to work with no counseling and no follow-up to identify difficult employers or poor work habits or other job problems that might tend to make the youth less employable in the future.

To alleviate many of these problems, localities should employ a full-time, permanent staff to administer summer job programs for youth. The staff should be competent to counsel youth in job-related matters, as well as to solicit summer job opportunities from the private sector and from Federal, State, and local government employers. In cases where a limited number of jobs are available, criteria should be established to designate which youths should receive priority for these scarce positions. This selection should take into account economic need, membership in a group with a history of employment problems, and the youth's career interests.

Job oportunities or job banks should be created using the full resources of the local media, local Chamber of Commerce, political leaders, and other community representatives. If possible, government should provide financial inducements to employers that create job oportunities for youth.

Systems for counseling youth before employment begins and a follow-up system to monitor job progress should be components of a summer job program. Job counseling also should be available on a continuing basis, to assist youths in their adjustment to the work situation.

Successful job experience should be measured in terms of job attendance rates and performance evaluations, employer satisfaction, and the youth's perception of the value of the work experience.

An example of a workable summer employment program for youth is the Basset Youth Service in La Puente, California. This service provides summer employment in hospitals, city agencies, and community organizations. A full-time job developer finds the jobs, makes placements, and provides liaison and followup services. Youths are instructed in preparing a resume, applying for a job, and keeping a job.

Summer employment programs using a combination of local and Federal resources also are conducted in St. Louis, New Haven, and Phoenix. Title III of the Comprehensive Employment and Training Act provides funds for summer programs for economically disadvantaged youths.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*. Washington, D.C.: Government Printing Office, 1973.

2. White House Conference on Youth.

Related Standards

The following standards may be applicable in implementing Standard 3.25:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.26

Employment—Job Opportunities for Youths With a History of Delinquency

Employment services and correctional officials should work together to develop and/or expand job opportunities for youths with a history of delinquency.

Commentary

While unemployment is a major problem for all youths, young persons under 20 with a history of delinquency have the most difficulty in securing full-time jobs. Their unemployment rate is significantly higher than the rate of the same age group in the general population.

The high rate of unemployment among young persons with a history of delinquency in itself might be cause for serious corrective social response. The problem takes on greater significance, however, when one considers that employment is likely to be an important factor in the juvenile's success in avoiding future involvement in delinquency. While there is no solid evidence that unemployment alone causes recidivism, a number of studies have demonstrated that unemployment may be among the principal factors involved in recidivism of adult offenders. There is no indication that findings for young persons would be different.

It is likely that, to a great extent, the high rate of unemployment among these juveniles results from their being precluded from job opportunities as a result of their having a juvenile record. Much of this problem can be eliminated by maintenance of strict confidentiality of juvenile records.

The success of these juveniles in the job market, however, may require measures beyond removing potential restrictions on work opportunities. Many feel that processing a youth through the juvenile justice system reinforces the youth's perception that he or she is not a potentially productive member of society. Persistent labeling of an individual as delinquent may lead the individual to accept the label as true. For those youths who have been officially labeled as nonmembers of legitimate society, special effort must be made to establish opportunities for them to assume conventional roles. To this end, juveniles with a history of delinquency should be trained for jobs that offer an attractive alternative to delinquency and such jobs should be made available on completion of the training period or on the youth's release from custody.

Preparing young persons for employment should be a major function of youth correctional systems. Training programs for youths in custody should provide the skills needed to meet the requirements of the labor market. Although a number of training programs have been implemented in youth institutions, these programs have had little success in actually directing youths into employment opportunities. To make training and the employment opportunities that do exist more useful, efforts should be made to coordinate all the services that can contribute to making a job a reality.

Many of the employment related services available to young persons possessing a history of delinquency are offered in a piecemeal fashion. These youths have to track down information on job leads from a number of different placement bureaus, and this becomes even more complicated when it is understood that each bureau works independently of the others. Often the youth is given no professional advice to assist him or her with the special problems faced by delinquents. Usually there is little followup to monitor the youth's success on the job and few efforts to alleviate job-related problems.

Some of the employment problems faced by persons with a history of delinquency may be eliminated by increasing cooperative efforts between correctional officials and staff members of the community job placement centers advocated in Standard 3.23. Placement center staff should be responsible for identifying the employment opportunities available and should work with employers to develop new opportunities. Also, they should maintain close cooperation with officials of youth institutions and probation officers, so that qualified youths can be matched up with jobs available without undue delay. Job center staff should be aware of the possible special counseling needs, in addition to job counseling, of youths who have been identified as delinquent, and should be able to make appropriate referrals. The staff should be able to direct into training programs those youths who have received no previous training. In addition, a three-month followup profile should be maintained to insure job success for youths for whom the center finds jobs.

Several programs similar to that described above currently are in operation in various cities. The Baltimore Pre-Trial Intervention Project (PTI) is one of them. The PTI Project is an outgrowth of a contract among a Boston private criminal justice firm, the U.S. Department of Labor, and the city of Baltimore. It offers a comprehensive approach to changing juvenile behavior patterns through counseling, education, employment, and other social services. The program's employment coordinator seeks employment and training positions that either are immediate income supplements or a means to later, more substantive employment. Courses are offered to help the participants understand what a job is, its purpose, the effect of education on job classification, and how to select, apply, get, and keep a job.

A program similar to the Baltimore project is the Juvenile Service Program of Pinellas County, Florida, which seeks to increase the participants' opportunities to develop employable skills and offers vocational counseling and education.

With funds from the Comprehensive Employment and Training Act, San Francisco has created three affirmative action programs that subcontract for services with four local groups: Chinese for Affirmative Action; Jobs for Latin Americans; Bayview-Hunter's Point Skills Center; and the Mission Hiring Hall.

Using an interagency and community oriented approach, the Youth Work Experience Program in Oakland, California, assists the community in increasing youth employability through work experience in community service and career development programs.

The Baltimore Consortium, which encompasses the City of Baltimore and five neighboring counties, has established a network of 14 one-stop community centers. Each center provides a full range of manpower services, including intake, assessment, counseling, training referral, job development, and placement.

References

1. Miller, Herbert S. *The Closed Door.* U.S. Department of Labor, 1972.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention.*

3. Pownall, George A. *Employment Problems of Released Prisoners* (University of Maryland mimeograph).

Related Standards

The following standards may be applicable in implementing Standard 3.26:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.27

Employment—Confidentiality of Juvenile Records

Each State should enact legislation making the records of all juvenile proceedings inaccessible to potential employers. This legisation should make illegal the questioning of a youth by an employer as to the existence or content of the youth's juvenile record.

Commentary

The notion that court proceedings are nonpunitive is fundamental to the philosophy of the juvenile court. This requires that no juvenile suffer the civil disabilities that often are imposed on individuals who have a record. Most jurisdictions abide by this philosophy by requiring confidentiality of juvenile records. However, a number of studies have found that a youth's juvenile record may be a substantial barrier to his or her employment.

Job disqualification resulting from misuse of information from their juvenile court records may cause deep frustrations in many youths. They may feel betrayed and alienated from conventional society, and may turn to criminal careers because they see few possibilities for success in legitimate careers.

Some employment applications still require the applicant to disclose arrest records or reveal in some manner any prior history of trouble with the law. Employers often use information about prior arrests to exclude job applicants, even though arrest information alone is insufficient to determine if the applicant ever really was charged or convicted of any delinquent act. Even places that have no formal policy barring juveniles with a record of delinquency may discriminate against such individuals subtly. Youths with juvenile court records often are put in the position of having to either confess their previous court history or deliberately falsify their applications. Giving false information on a job application form often then becomes grounds for denying employment or discharging employees. In other instances, employers ask youths to waive their rights to confidentiality of juvenile court records. This waiver is often given under conditions of mild coercion.

If the confidentiality of juvenile justice system proceedings is to be maintained, every effort must be made to discourage improper examination of court records by potential employers and release of such information by juvenile justice personnel. More stringent administrative guidelines can do much to safeguard the confidentiality of juvenile court recordkeeping systems. In some cases, legislation may be required to underscore the importance of upholding this policy. Legislation could be designed to prohibit potential employers, both public and private, from inquiring about the arrest, detention, hearing, adjudication and disposition of any juvenile. This standard, however, is not intended to discourage law enforcement agencies from acting as intermediaries in seeking jobs for youths who have come into their custody.

References

1. Miller, Herbert S. *The Closed Door*. U.S. Department of Labor, 1972.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

3. Skolnick, Jerome. "Two Studies of Legal Stigma," *Social Problems*, Vol. 10 (1969).

Related Standards

The following standards may be applicable in implementing Standard 3.27:

1.1	Developing a Comprehensive Delinquency Prevention Plan
2.1	The Local Role in Delinquency Prevention
2.8	Financing Delinquency Prevention Programs
2.9	Resource Allocation
28.1	Collection and Retention of Information on Juveniles
28.2	Access to Juvenile Records
28.3	Children's Privacy Committee
28.4	Computers in the Juvenile Justice System
28.5	Sealing of Juvenile Records

Standard 3.28

Employment—Age and Wage Restrictions

The Federal Government and each State should examine thoroughly their legislation that affects youth employment. Laws that restrict youth employment opportunities without real risks to health or development should be removed or revised.

Commentary

Most legislation aimed at regulating youth employment was drafted at the turn of the century in reaction to working conditions that exploited and produced serious health hazards for working children. Since then, safety precautions and overall working conditions have improved greatly. But there is no question that full-time employment in most occupations still would be detrimental to the healthy development of young children. The hazardous nature of many jobs makes it sound policy to exclude even somewhat older youth from employment in these lines of work. As written, however, many statutes provide for an almost blanket prohibition on youth employment, thereby neglecting the employment needs of today's youth. Such statutes conflict with current knowledge about the beneficial aspects for youth of stable employment, and are counterproductive in relation to delinquency prevention efforts that are based on employment.

Very often statutes restrict youths from meaningful employment situations until their 16th birthday. Sometimes existing law arbitrarily excludes anyone under 18 years old from certain occupations. The effect of much of this legislation is to keep employable youth unemployed, while serving no legitimate purpose for society. Although legal protection for children should continue, so that they are not harmed by early work experiences, present laws should be reviewed to determine if they are addressing the needs of employable youth properly. Child labor laws should reflect the realities of the current labor market.

Employers willing to offer young people some type of employment often are deterred by minimum wage laws. Employment opportunities for youth in the private sector can be expanded greatly if private employers can be assisted in bearing the cost for such expansion. A program of government subsidies for youth labor costs should be established for this purpose. Similar arrangements have been successful for college students through the College Work-Study Program. Standard 3.24 advocates instituting this type of program in the high schools. In addition to youth involved in an education setting, however, youth who have completed or interrupted their education and are in need of work can be benefited greatly by a subsidy arrangement. Such a program can be administered by a local public employment service.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention.*
2. White House Conference on Youth.

Related Standards

The following standards may be applicable in implementing Standard 3.28:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.29

Justice System—Diversion

States and units of local government should develop programs that divert children from the juvenile justice system.

Commentary

The concept of diversion is based on a critique of the present juvenile justice system. Advocates of diversion generally point to the facts that many juvenile courts are overburdened with cases, the juvenile justice system has become highly bureaucratic and impersonal, and that the court deals with a variety of petty offenders and violators of juvenile status offenses who could be handled better outside of the court. It also is believed that formal contact with the juvenile justice system may do more harm than good to some children. Adjudication of delinquency has serious consequences for the future responses the child receives from teachers, parents, and police. Moreover, the child may internalize a negative self-image as a result of this contact with the justice system, which, in some cases, may lead to further acts of delinquency. Thus, the courts may inadvertently stigmatize the child, making it more difficult for the youngster to lead a normal life.

Police and juvenile probation officials traditionally have diverted a large number of youths from juvenile court. But the criteria used to make these decisions are often arbitrary and the provision of alternative services unsystematic. Well designed diversion programs develop explicit criteria for identifying children who will not benefit from formal court processing. Because some of the children diverted require social services, diversion programs should include these service resources or access to services, as well as a method to monitor the progress of children placed in such service programs.

Several methods could be used to realize the recommendations of this standard. Often it is preferable to divert children from the juvenile justice system when it is clear that their behavior or their needs do not require court intervention. First time referrals usually fall into this category when their behavior is not serious and they do not appear disturbed or otherwise in need of treatment. For these juveniles, release without delivery of further services may be the most appropriate method of handling these cases.

Sometimes the delinquent behavior of children seems to indicate the need for services but does not seem to warrant their complete processing within the juvenile justice system. Diversion programs for these children should focus on directing the child to a community agency or individual capable of providing the service the child or parents require. These types of diversion programs involve varying amounts of coercion by the police or the court. They range from mere referral of the family to a service agency to suggesting they take advantage of the alternative service in lieu of court adjudication. In its most extreme form, this type of diversion program actually constitutes a deferred prosecution. Youths needing some attention are referred to various community groups that agree to supervise them for a fixed period of time. If the child stays out of trouble during this period, no further proceeding within the juvenile justice system takes place. If the youth does experience difficulty, the court may be requested to take action.

Although this particular type of diversion program may be appropriate for some communities, it is subject to abuse. In some jurisdictions, children with only the most minor delinquency allegations are selected for these programs. Although it appears as though the child is being diverted, in many instances, it is likely that, if the case went to court, either the petition would not be sustained or very little would be required of the parent or juvenile to achieve disposition—far less perhaps than what would be required of the parent and child if they agreed to participate in the deferred prosecution program. It also should be recognized that many of the possible benefits of voluntary treatment programs can be frustrated by excessive coercion. If coercion is to play a major role in a child's participation or continuance in a service program, it should be preceded by court adjudication.

Another model of diversion involves creation of youth service bureaus, which are community-based agencies composed of juvenile justice personnel and community representatives. Although youth service bureaus provide some direct services to youth, they also act as referral centers for a wide variety of community agencies. Often, a fee-for-service arrangement is incorporated, in which the diversion program staff uses program funds to purchase services needed by their young clients.

Diversion programs using any of the above models should include provision for legal advice to prospective clients so that they understand the nature of the agreement they make when they enter such programs. Entering a diversion program should be voluntary, and it should not be viewed as an implicit admission of guilt. Youths and parents should be given a written contract outlining the nature of the services to be offered and the expectations for behavior on the part of the child and his parents.

In some jurisdictions, diversion programs operate out of police departments; in others, probation departments operate the diversion programs. And in other places, combinations of both methods are used. A number of these diversion programs appear to have achieved their objectives. The Police Diversion Unit in Richmond, Calif., is an example of a program in which the police are the central decision-makers. The Sacramento 601 Project is a successful example of diversion conducted by a probation department. The Community Youth Responsibility Project, in Palo Alto, Calif., involves cooperation between a sheriff's department and a local community organization. Children are referred to the project, which holds hearings conducted by community residents who decide on a community service disposition for the child and provide referral services for children with specific needs.

References

1. Empey, LaMar T. and Lubeck, Steven G. *Delinquency Prevention Strategies*. U.S. Department of Health, Education, and Welfare. Youth Development & Delinquency Prevention Administration, 1972.

2. Gemignani, Robert J. "Youth Service Systems," *Delinquency Prevention Reporter*. U.S. Department of Health, Education, and Welfare. Youth Development & Delinquency Prevention Administration. July-August 1972.

3. Goldman, Nathan. *The Differential Selection of Juvenile Offenders for Court Appearances*. New York: National Council on Crime & Delinquency, 1963.

4. Lemert, Edwin M. "Instead of Court: Diversion in Juvenile Justice." National Institute for Studies of Crime & Delinquency, 1971.

5. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

6. Norman, Sherwood. *The Youth Service Bureau: A Key to Delinquency Prevention*. National Council on Crime & Delinquency, 1972.

7. Piliavin, Irving, and Briar, Scott. "Police Encounters With Juveniles." *American Journal of Sociology*. September 1964.

8. U.S. Dept. of Health, Education, and Welfare. Social and Rehabilitation Services. "Delinquency Prevention Through Youth Development." Youth Development & Delinquency Prevention Administration. DHEW Publication No. (SRS) 73-26013, May 1972.

Related Standards

The following standards may be applicable in implementing Standard 3.29:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards
4.3 Use of Least Coercive Alternative
4.4 Guidelines on Use of Police Discretion
5.6 Guidelines for Taking a Juvenile Into Custody
5.7 Guidelines for Counseling and Releasing
5.10 Guidelines for Diversion or Referral to Community Resources
6.3 Relationships With Youth Service Bureaus
8.2 Family Court Structure
9.1 Definition of Delinquency
10.8 "Delinquent Acts" by Child Younger Than 10
11.1 Respect for Parental Autonomy
14.4 Selection of Least Restrictive Alternative
21.2 Processing Applications for Petitions to the Family Court
22.4 Preadjudicatory Detention Review
28.1 Collection and Retention of Information on Juveniles

Standard 3.30

Justice System— Citizen Efforts to Prevent Delinquency

Persons who administer the juvenile justice system should both encourage and assist citizen efforts to prevent and control juvenile delinquency.

Commentary

Delinquency prevention theory clearly suggests that demonstrated community solidarity is a key to preventing delinquent behavior. The logical extension of putting this theory into action involves organizing the citizenry to discourage and resist delinquent behavior. In support of this theoretical base, juvenile justice spokespersons have stated that the resources of the justice system alone are inadequate to affect significantly the rate of crime and delinquency. The effectiveness of the justice system in controlling juvenile delinquency depends, in large part, on the support and cooperation it receives from society in general and from citizens residing in high crime areas in particular. Clearly, then, there is solid theoretical foundation for helping citizens organize to prevent and control delinquency.

The effective mobilization of community resources for delinquency prevention and deterrence depends on continuing cooperation between the juvenile justice system and the community. Agency officials must demonstrate clearly the need for certain policies and programs; the public is unlikely to support anything if perceives to be merely self-serving pronouncements requesting more personnel and higher pay. By viewing the citizenry as an extension of their own agencies, juvenile justice personnel can advise citizen groups of specific actions they can take to make the efforts of the police, the juvenile court, and juvenile service agencies more effective.

It is important that the police, courts, and correctional agencies continually monitor the performance of the juvenile justice system and delinquency prevention activities, so that they can advise the public on those strategies that appear to have more merit than others. This necessitates an openness on the part of the juvenile justice system in reporting successes and failures to the public, involvement by juvenile justice system personnel in community organization meetings, and specification of steps that individuals and groups in the community can take to prevent and deter undesirable activities. Although persons who administer the juvenile justice system are not community organizers, they do possess some of the knowledge that the community needs to guide its organizational efforts and can provide a sense of what might or might not be effective.

Persons who administer the juvenile justice system should encourage and assist communities to harness the citizen interest needed to prevent and control delinquency. In recent years, juvenile justice agencies have helped sponsor numerous citizen activities to assist the entire juvenile justice system.

One important citizen activity is the reporting of delinquent behavior. Citizens can assume this responsibility on an individual basis or collectively. The marking or labeling of property by owners has also reduced the incidence of burglary where this tactic has been used. Cooperative use of local alarms is another neighborhood strategy to reduce crime. Perhaps the greatest involvement by citizens occurs in volunteer programs. The National Advisory Commission volume, *Community Crime Prevention* estimates that as many as 100,000 volunteers are affiliated with well over 1,000 courts. In many programs, professionals and volunteers working together provide intensive probation services that cannot be supplied in any other way.

Court-watching is an activity that involves many thousands of citizens who note the performance of judges and prosecutors, reasons for delays and continuances, presence of bail bond solicitors, and consistency of sentences for comparable offenses. Though this practice has primarilly been utilized in criminal court activities, there is no reason why similar efforts could not be undertaken in the juvenile courts as well. There is growing concern for the rights of juveniles, and citizen efforts to help protect those rights by observing juvenile courtroom practices should be given serious consideration.

Some jurisdictions have taken positive steps to involve citizens in the court process. One family court employs liaison referral workers. These volunteers explain the court process to apprehensive parents, gather information about the family to assist the judge, and help families obtain aid from appropriate community agencies. In some jurisdictions, courts use volunteers to assist the families of delinquents in meeting needs and resolving problems.

The corrections component of the criminal justice system is receiving increased attention from professionals and citizens. Homes for runaways and children in trouble frequently are funded or staffed by citizens. Such residences may be group homes in which 15 to 20 youths live, or they may be foster homes. In other types of residential programs, offenders work or attend school in the community while progressing through stages of increasing responsibility.

Citizen programs to assist the juvenile justice system can be found in many parts of the country. In California, the Sacramento County Sheriff's Department and several business and civic organizations have sponsored the Citizens' Alert Program which encourages citizens to observe homes and businesses, report suspicious circumstances, and protect their own firms with safety features. Other examples of similar citizens' cooperative efforts to prevent crime and delinquency are: Citizens Helping Eliminate Crime, Lima, Ohio; Chec Mate, Kalamazoo, Mich.; Community Radio Watch, Buffalo, N.Y.; Community Vigilance Program, Philadelphia, Pa.

Court assistance programs that emphasize assistance to the family of the juvenile also exist in many cities. Examples are: Volunteers for Juvenile Court Families, Kalamazoo, Mich.; Court Referral Program, Oakland, Calif.; Austin Rehabilitation Center Probation Services, Austin, Tex.; Friends in Action, Columbus, Ohio; Court Liaison Referral Service, New York City, N.Y.; Court Volunteer Program, Chicago, Ill.

Citizen efforts in the corrections area can be found in Memphis, Tenn., where the Project Self-Respect program aims to improve the inmates' self-images and better equip them for reintegration into the community upon release. The Boys Home of Montgomery County, Inc., Kensington, Md., also provides an alternative to incarceration. The boys residing in the home follow a normal routine of study, work, and play while receiving regular counseling.

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1. Adams, Gary. "Crime Prevention: An Evolutionary Analysis," *Police Programs for Preventing Crime and Delinquency*. Dan Pursuit, John Gerletti, Robert Brown, Jr. and Steven Ward (editors). Springfield, Ill.: Charles C. Thomas Co., 1972.

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Related Standards

The following standards may be applicable in implementing Standard 3.30:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.7 Youth Participation
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.10 Education—Developing Comprehensive Programs for Learning
4.2 Police Responsibility in Protecting Integrity of the Law
4.6 Participation in Policy Formulation Efforts
7.4 Citizen Involvement in Evaluation of Juvenile Operations
18.4 The Court's Relationship With the Public
18.5 The Leadership Role of the Family Court Judge

Standard 3.31

Justice System—Information on Deterrence

Police agencies should systematically disseminate crime prevention information to citizens, particularly to those people who are victimized most frequently by delinquent acts. Such information should suggest practical and proven steps that such individuals can take to safeguard themselves and their property.

Commentary

Many delinquent acts are committed because their commission involves little or no risk for the perpetrator. Acts such as burglary, auto theft, or purse snatching usually can be prevented if the victim takes certain simple precautions. Crimes of this nature are crimes of opportunity, and efforts to deter them may result in lowered delinquency rates. Both the criminal justice system and, especially, the police, have a responsibility to disseminate crime prevention information about measures that have proven successful to those for whom it would be most useful.

Statistics show that the victims of delinquency often are senior citizens, women, and youths themselves. These groups should be the focus of police information dissemination efforts. Each of these groups has a favored source for exchanging information, and police agencies should identify and use these sources to insure a high level of communication.

Auto theft can be reduced greatly by encouraging people to remove the keys from their cars and to lock their automobile doors. Over the past few years, automobile design has introduced reminder ignitions and self-locking doors. Both of these have contributed to a reduction in auto theft. But until all cars have this equipment, car owners must be educated to think about car security.

Shoplifting is a frequent form of delinquency, but if merchants were made more aware of deterrence strategies, the incidence of this crime could be reduced. Tactics to prevent shoplifting could include use of mirrors, security personnel, video monitoring systems, electronic devices, and increased sales personnel.

Another youthful offense, purse snatching, can be discouraged in the evening hours by improved street lighting, especially in areas frequented by elderly citizens. Improved street lighting has been shown to reduce crimes against persons, auto thefts, and business burglaries in those communities where lighting has been utilized strategically and where there is adequate police manpower to respond to suspicious behavior.

Public awareness campaigns should make parents aware of the ways in which they can teach their children to avoid dangerous situations. The police can and should disseminate information on the use of whistles or flashlights for personal protection. Law enforcement officials can encourage neighbors to check the apartments and homes of elderly people who may have to come home late. Evening transportation services for youngsters and senior citizens can better insure their safety. When necessary, public transportation systems should utilize additional security forces during times when the threat of crime is greatest.

Organizations such as the General Federated Women's Clubs and the National Auto Theft Bureau have had success in their auto theft prevention campaigns. Shoplifting programs have been successful in department stores in Red Bank, N.J.; San Diego, Calif.; and Toronto, Ontario. Street lighting programs have successfully reduced crime in St. Louis, New York, and Detroit. A national evaluation of Operation I.D., an antiburglary campaign, has shown positive results in reducing rates of residential burglary.

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4. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society.* Washington, D.C.: Government Printing Office, 1967.

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6. Small Business Administration. "Preventing Burglary & Robbery Loss." Washington, D.C.: Government Printing Office, 1968.

7. Small Business Administration. "Reducing Shoplifting Losses." Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 3.31:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards

Standard 3.32

Justice System—School Programs

Juvenile justice system personnel should take an active role in school programs that educate youngsters about the purposes and functions of the juvenile justice system.

Commentary

There is a strong need for contact between youngsters and juvenile justice personnel under circumstances that are not stressful for either party. The most obvious purpose for involving police in the classroom is to change the negative image that many youngsters may have of the police. But such programs also could serve to alter the negative image many police people may have of the young.

The involvement of juvenile justice personnel in the school curriculum should not be reduced to a public relations job by police, lawyers, judges, or community agency personnel. In junior high and high school especially, such sessions should focus on communication of personal feelings about respective roles and actions and what both groups could do to create a more positive environment.

Participation in classroom discussion should not be limited only to specialists such as the police-community relations specialist or the court's public information officer. Various individuals who constitute the juvenile justice system, such as youth officers, lawyers, judges, detention center personnel, and community program employees should be involved. Efforts should be made to involve people who themselves are members of the majority racial and ethnic composition of the class or school; this may help break down stereotypes.

The classroom teacher should encourage role playing to create situations in which the participants can experience empathy. Field trips to police stations, juvenile courts, juvenile detention centers, and juvenile service agencies should be incorporated in the learning experience.

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Related Standards

The following standards may be applicable in implementing Standard 3.32:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
6.4 Police-School Liaison

Standard 3.33

Justice System—Handgun Control

The Federal Government and each State should enact legislation prohibiting the manufacture and sale of handguns to anyone other than law enforcement and private security personnel and Federal and State governments for military purposes. In addition, each State should prohibit private ownership and possession of handguns by persons not included in the above categories.

Commentary

The high level of violence in this country is a major problem, and without doubt, the problem is intensified among the Nation's youth. In many large cities, death by violent means accounts for the largest proportion of teenage deaths. In Chicago, where it is estimated that street gangs are responsible for more than one-third of the city's serious crime, approximately 150 gangs are battling each other for supremacy. Gang members no longer employ only clubs, knives, and homemade zip guns in their battles—their weaponry now includes .38 caliber revolvers, automatic pistols, and sawed-off shotguns. In the 17-county western New York State area, bank robberies were reported up 300 percent. Over half of the robberies in this area were committed by youths under 20, ages ranging all the way down to 14 years old. Most of these youths were armed with guns. Across the country, in both cities and rural areas, the use of firearms by youth is frequent and increasing.

Although juveniles usually are legally restricted from owning guns, many youths obtain them easily. Private ownership of handguns in the United States is higher on a per capita basis than in any other country. Between 1954 and 1974, domestic production of handguns more than tripled, increasing from 491,973 to 1,894,872. Estimates of the number of privately owned handguns in the United States run as high as 40,000,000. It is almost inevitable that, with a level of production and possession this high, close regulation of weapons cannot be maintained. Since the passage of the Gun Control Act of 1968, there has been an increase in the theft of firearms, particularly from interstate shipments. A survey of the Nation's trucking firms revealed gun thefts as high as 1,000 guns per month. Stolen guns often are found later in the possession of persons involved in the commission of a criminal act.

It is often argued that, lacking a gun, persons prone to commit violent acts would utilize some other form of weapon to the same effect. The inappropriateness of labeling the gun as just another weapon, however, cannot be overlooked. Guns have been found to be five times more likely to cause death than would a similar attack with a knife.

Robberies in which a gun is used are four times more likely to result in a victim's death than robberies in which a gun is not used.

When discussing firearm regulation, the handgun must receive special attention. Because of ease in handling and concealment, the handgun is a favored weapon in commission of crimes. Over 50 percent of all murders involve the use of handguns, as compared with 6 percent for rifles and 8 percent for shotguns. Approximately one-third of all robberies and one-fifth of all aggravated assaults are committed with handguns.

Current State gun control measures involve some form of requirements for gun registration or licensing of gun owners. Registration statutes assist law enforcement in investigations of gun-related crimes, but their contribution to crime prevention is limited, because their main utility is in the period after the crime has occurred. Licensing procedures regulate who may purchase, carry, or possess a gun. Several States have enacted strict gun control laws based on licensing. In some cases, these laws have contributed to a reduction in gun deaths. But even the most restrictive State laws have not been effective in controlling the increase in the number of criminal acts in which guns are used. Very often, crossing a border between States makes restrictive statutes in one State unenforceable. The ease with which juveniles obtain guns is ample evidence that so long as a large number of guns are in circulation, they cannot be subject to close supervision. Until private possession of handguns is prohibited, they will be readily available for criminal purposes.

Under the Nation's governmental structure, restriction of citizens' privileges never is an easy step to take, and never will such a decision be supported by everyone. But, on balance, the arguments for eliminating private possession of handguns have much greater merit than the arguments for permiting possession of handguns for legitimate purposes. Although many people believe that to own a handgun to protect their persons and homes is highly reasonable, criminal justice statistics point out the fallacy of this argument. Burglars typically avoid confrontation situations; usually they select houses that are unoccupied. And there are few situations in which a resident will be able to react quickly enough to thwart someone intent on confronting and robbing those persons in the house. A loaded gun in the home is more likely to cause death to a family member or friend than to an intruder; for every burglar shot, four to six homeowners or family members are killed accidentally by a gun.

Public opinion polls have shown consistently that the majority of the American public supports strict gun control legislation. A 1975 Gallup poll indicates that approximately two-thirds of the residents of large cities favor an absolute ban on private ownership of handguns. Public concern over combating violent activity on the Nation's streets, especially among youth, necessitates that any comprehensive delinquency prevention plan include the elimination of the most frequently lethal weapon. Each State should develop an efficient mechanism for the repurchase or repossession and destruction of existing handguns that are privately owned.

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3. Newton, G. and Zimring, F. *Firearms and Violence in American Life: A Staff Report to the National Commission on the Causes and Prevention of Violence.* Washington, D.C.: Government Printing Office, 1970.

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Related Standards

The following standards may be applicable in implementing Standard 3.33:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

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Standard 3.34

Recreation—Providing Recreational Opportunities

Municipal recreation programs should provide recreational opportunities for all youths in the community. Recreational programming should emphasize outreach services in order to recruit youths who otherwise might not be reached and for whom recreational opportunities may be an alternative to delinquency.

Commentary

Over the years, individuals intent on attracting problem youngsters to conventional activities have attempted to gain their trust and confidence by showing concern for and understanding of the activities these youths are engaging in. Reaching out to such individuals and groups to encourage their participation in more constructive activities remains a viable approach.

Because of its variety, informality, and universal appeal for the young, recreation has become a focus for many outreach programs. The outreach worker uses his or her knowledge of language, organization, and psychology of disadvantaged youth to entice them to come, individually or as a group, to the playground area. Playground leaders, the outreach workers and the young people work together to devise programs and settings for specific activities that will be attractive to the new recruits while continuing to involve the regular playground participants.

In most cases, outreach programs will require that the sponsors of the recreation relinquish some control over programming to allow for greater community participation. If the sponsors, public or private, resist this community involvement, the outreach program is doomed to fail. The outreach worker is continually struggling to bridge a gap between the hard-to-reach consumer and the establishment. A successful bridge necessitates give and take on both sides, especially on the part of those providing the service. It is this process that enhances the outreach worker's legitimacy, and, ultimately, the worker's effectiveness.

Recreational programs with an outreach component increase the risk for all participants. Bringing new people into an agency's activities inevitably causes new tensions and conflicts. Avoiding the tension, however, also excludes the opportunity to involve that segment of society's youth who are most in need of help.

The key to any successful outreach program rests with the abilities of the outreach workers to gain the trust of the young and to involve them in constructive and meaningful activities. Service agencies should be on the lookout for staff members who possess the uncommon set of attributes that permits them to communicate freely with youth while maintaining influence within the service system.

Continuous efforts should be made to recruit outreach workers from many different segments of the community. This could yield the double benefit of employing individuals who otherwise might not gain employment while suggesting to young people one avenue to meaningful employment.

Recreational programs employing outreach workers need not be limited to municipal park and recreation agencies. They can and should be employed by a wide range of community agencies such as Boy Scouts, Girl Scouts, YMCA's, YWCA's, schools, and religious organizations. All service agencies dealing with young people can benefit from the perspective that accompanies outreach programs. This includes the sharing of authority with the young, acting as advocates for the young, and involving the young in decisions that most affect how they will spend their lives.

Philadelphia, Pa., provides one example of a municipal project to promote recreational opportunities. There, the Department of Recreation uses outreach workers and roving leaders who attempt to discover the interests and needs of gang members and suggest constructive ways to fulfill the needs. In Pasadena, Calif., Outward Bound Adventures operates with the purpose of putting low-income youth in touch with their environment, themselves, and their potential. The program takes youths on wilderness trips, one-day mountain hikes, tidepool-beach study trips, and provides other outdoor natural science study experiences. Former participants are hired as counselors, assume leadership roles, and are afforded opportunities for on site field experience and career training.

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3. Meyers, Robert Ellis. Controlling the Poor, the Undeclared Goal of Public Recreation. D. Crim. thesis. 1974. School of Criminology. University of California, Berkelely, Calif.

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5. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

6. Norman, Sherwood. *The Youth Service Bureau: A Key to Delinquency Prevention*. National Council on Crime & Delinquency, 1972.

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8. White House Conference on Youth. *Executive Branch Review*. Washington, D.C.: Government Printing Office, 1971.

Related Standards

The following standards may be applicable in implementing Standard 3.34:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.35

Recreation—Utilization of Recreational Facilities

Maximum use should be made of existing recreational facilities, especially within the schools, during the afternoons and evenings, on weekends, and throughout the summer. Where existing recreational facilities are inadequate, other community agencies should be encouraged to provide facilities at minimum cost or at no cost, where feasible.

Commentary

Although a few recreational programs can take place independently of their physical environment, most require a facility in which the program can be conducted. And although, historically, inner-city youngsters have demonstrated creativity by inventing activities such as stickball, street football, pinners or lineball, their activities are restricted because of a lack of open space.

Lack of space requires that existing facilities be used more extensively. Public and private agency facilities that typically close after business hours should be encouraged to keep their facilities open and supervised during the evenings and on weekends. Also, development of new recreational areas that can serve multiple purposes and that can be designed for maximum use even though they occupy limited space should be undertaken.

By encouraging young people to use recreational facilities as frequently as possible, more activities can be conducted in the open, where supervision is easier. In addition, making schools available for swimming and basketball in the evenings and on the weekends helps change the image of the school as only a place for learning and discipline. Finally, the effort invariably required of public and private agencies to make their facilities available more often and to more young people will not go unnoticed by the young. The gesture represents a commitment toward supporting the needs of youth that means more than the rhetoric the same agencies otherwise might rely on.

Open space is at a premium in most inner-city areas. Dilapidated housing, however, is not. Frequently, such housing is both an eyesore and a safety hazard. Demolishing such structures and converting the vacant lots into pocket playgrounds for tots and young people makes valuable use of the land while it awaits subsequent use.

Existing vacant lots, which often are littered with rubble, could be paved at low cost. The area then might serve as offstreet parking for commercial establishments during the day and as basketball courts after working hours and on weekends.

School facilities can be open during the evenings and on weekends, with volunteers serving as supervisors. The same would be true of youth clubs and service agencies, if they are not already being used in this manner.

Many existing community school centers have been designed to provide an integrated educational experience for the students and the community as a whole. Accessible and extensive recreational facilities are a prominent feature of these centers. The Conte Community School in New Haven, Conn., is an educational park that includes classrooms, shared recreational space, and buildings designed specifically for community use. Other experimental centers have been established in Atlanta, Ga., Arlington, Va., and Pontiac, Mich. In Philadelphia, the Neighborhood Youth Resources Center (NYRC), operates 12 hours a day and provides, among its wide range of services, recreational and cultural programs for youth living in the inner-city.

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2. Murphy, James F. "Higher Education in the Outreach Program—The Ivory Tower Has Its Role," *Outreach: Extending Community Service in Urban Areas*. Joseph J. Brown, edit. Springfield, Ill.: Charles C. Thomas Co., 1973.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

4. President's Commission on Law Enforcement and the Administration of Justice. Task Force Report: *Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

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6. White House Conference on Youth. *Executive Branch Review*. Washington, D.C.: Government Printing Office, 1971.

Related Standards

The following standards may be applicable in implementing Standard 3.35:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.9 Education—Integrating Schools Into The Community
3.10 Education—Developing Comprehensive Programs for Learning
3.19 Education—Utilization of School Facilities
6.5 Participation in Recreation Programs
24.12 Recreation and Leisure Time Activities

Standard 3.36

Recreation—Meeting Individual Needs

Individual needs should be considered in planning recreational programming.

Commentary

The National Advisory Committee on Criminal Justice Standards and Goals concluded that recreation can become a considerable resource for those concerned with delinquency prevention. Many youths, however, do not use organized recreational programs either because of lack of interest or inability to participate in activities that traditionally have been offered. The goal of recreational programs should be to involve young people in interesting and relevant activities that prepare them to structure and use their leisure time effectively.

Disadvantaged youths become aware all too soon that society's institutions have little room for the person with needs different from those of the majority of citizens. If recreation is to serve as an opportunity for delinquent or potentially delinquent young people to become involved in society in a manner they find potentially meaningful, leaders of recreational programs must recognize individual, as well as group, needs.

The Mobilization of Youth programs in New York's lower east side substituted an adolescent service center for its detached worker program. Mobilization found that participating adolescents needed help in leaving the group and developing as individuals. This recognition has occurred elsewhere and tends to underscore the importance of individual needs in recreational planning.

Many theories of delinquency imply that strategies for preventing delinquency should focus on the individual. This could include helping the individual develop realistic aspirations, relevant skills, and a belief that he or she has a personal stake in society. Recreational programs that recognize the individuality of youths can help provide the disadvantaged youth with a feeling of personal worth.

Recreational programs should be offered that emphasize development of individual skills, such as fine arts, crafts, sewing, cooking, and carpentry. Such programs can be incorporated rather easily into a recreational format that does not subject the individual to the peer pressures that are part of team sports. In addition, many individual activities lay the groundwork for the development of skills that can lead to job opportunities.

Individual projects supervised by a recreational leader also encourage a one-to-one relationship, which can help identify specific needs of the youth and help insure that the youth receives the supportive services required.

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2. Kraus, Richard G. "Delinquency & Recreation—Fact and Fiction," *Recreation*. October, 1965.

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4. Martin, Alexander Reid, M.D. *Youth's Search for Identity*. Boy's Club of America, 1965.

5. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

6. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

7. President's Commission on Law Enforcement and the Administration of Justice. *Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

8. Schafer, Walter E. "Participating in Interscholastic Athletics and Delinquency," in Kenneth Polk & Walter Schafer (eds.) *Schools and Delinquency*. Prentice-Hall, 1972.

Related Standards

The following standards may be applicable in implementing Standard 3.36:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.37

Recreation—Increased Opportunities in Cultural Programs

All levels of government should initiate programs that expose young people to the arts and develop their interests in the arts. Communities should increase opportunities for all young artists to perform, create new works, and present their talents to the public.

Commentary

Theories intended to shed light on the causes of delinquency frequently cite the inability of many youngsters, especially disadvantaged youngsters, to participate in conventional institutional programs without experiencing frustration, failure, and eventual erosion of self-esteem. These theories attribute such results to the difference between society's middle class values and those of its disadvantaged subgroups. The latter, although sharing many middle class goals, are less equipped to pursue them successfully within the context of conventional institutions dominated by white, middle class values.

If these explanations are valid, then one strategy for preventing delinquent behavior should be to provide as many opportunities as possible for young people, disadvantaged or not, to participate successfully within the context of conventional, and hopefully constructive, institutions. This necessitates exposing young people to various opportunities for developing their own skills in a manner that affords them success and satisfaction within conventional settings.

The development of artistic talent has, unfortunately, remained an opportunity primarily for the middle and upper class youngster. Such opportunities should be vigorously provided for society's disadvantaged youngsters as early in their lives as practical. Doing so will provide a much needed set of opportunities for the disadvantaged to make successful links to more conventional and socially acceptable activities and institutions.

All levels of government should appropriate funds to develop summer cultural programs and festivals for youngsters, especially in those areas where a large percentage of the community is disadvantaged. Creative approaches could attract minority youngsters to music, art, drama, and other forms of culture that encourage individual expression relevant to the youngster involved.

Professional guilds at the local, State, and national levels should facilitate means for all young artists to become members of arts and crafts unions. Cultural programs should be offered through school and recreational programs, as well as through church groups and community organizations. Local museums, orchestras, and theater groups should encourage attendance and participation by young people. Classroom field trips should include museum tours and cultural shows and should be available to all youngsters during the school year.

Examples of practicable approaches are varied. Museums in New York and Boston have presented showcases of African artists. The Columbia University School of Journalism in New York and the University of California School of Journalism in Berkeley engage in special minority youth recruitment efforts and activities. The American Conservatory Theatre (ACT) company in San Francisco sponsors workshops geared to elicit participation from minority youths in the community. Upon completion of the workshop courses in dance, voice, and other performing arts, the students/participants give public performances and may audition to join the company.

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2. National Advisory Commission on Criminal Justice Standards and Goals. *Community Crime Prevention*.

3. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*, 1967.

4. White House Conference on Children. *Report to the President*. Washington, D.C.: Government Printing Office, 1970.

5. White House Conference on Youth. *Executive Branch Review*. Washington, D.C.: Government Printing Office, 1971.

Related Standards

The following standards may be applicable in implementing Standard 3.37:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.14 Education—Bilingual and Bicultural Education

Standard 3.38

Recreation—Selection of Staff

Local recreational programs should strive to select staff who are genuinely interested in youth, able to serve as resource persons, and capable of helping people find personally satisfying experiences.

Commentary

Traditionally, the role of recreational personnel in providing recreational services has been a passive one. Only rarely do recreational staff interact with young people to the extent that teachers, social workers, police officers, and other service agency staff do. And yet recreational programs aimed at disadvantaged youth depend on the ability of staff to relate to others in ways calculated to affect the quality of the participant's life experience.

Recreational personnel have the opportunity to observe youngsters under dynamic, informal circumstances, and a skilled leader can tailor recreational programs specifically to individual needs. Recreational personnel in disadvantaged communities thus can serve as knowledgeable resources for a diverse group of youngsters. The challenge is to organize activities without stifling the unique qualities that distinguish recreation from most other activities available to inner-city youth. Recreational programs should seek staff who are sincerely interested in the welfare of young people and who have a creative approach to meeting their needs.

Recreational leaders should, if at all possible, reflect the racial and ethnic makeup of the community in which they work. They should be trained in group work, casework, and/or community organization work, in addition to leadership training in the area of recreation. They should have experience in youth counseling or at least a familiarity with the available sources of counseling.

Recreational leaders should see themselves as a valuable resource in preventing delinquent behavior, but they should not lose sight of the integrated role that recreation should play with social service agencies, the school, and community manpower development programs in the total prevention effort.

The cities of Philadelphia and Honolulu provide two noteworthy examples of programs to improve the effectiveness of recreational staff. In Philadelphia, the Department of Recreation operates a program where trainees receive sensitivity training and instruction on how to organize and conduct recreational activities and how to deal with hostile or difficult groups. The Buddy System in Honolulu recruits recreational leaders who reflect the ethnic and economic class makeup of the community. Each buddy works for 9 months with three youngsters who are potential school dropouts, and both the buddy and the youth are from the same low income area.

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3. President's Commission on Law Enforcement and Administration of Justice. Task Force Report: *Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. United Community Centers, Inc. *Final Report of Juvenile Delinquency and Youth Development*. Washington, D.C.: Government Printing Office, September 1965–April 1966.

Related Standards

The following standards may be applicable in implementing Standard 3.38:

1.1 Developing a Comprehensive Delinquency Prevention Program
2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
3.14 Education—Bilingual and Bicultural Education
6.5 Participation in Recreation Programs

Standard 3.39

Housing—Adequate Housing

Housing and urban development agencies at all levels of government should promote decent and adequate housing for low-income families through increased construction of new housing units and recycling existing housing. Potential residents should be involved in the planning and design of all new housing developments. Special priorities should be placed on programs that reclaim existing housing through rehabilitation, reasonable code enforcement, and tax incentives to reduce abandonment.

Commentary

An impressive body of research has clearly demonstrated a relationship between high rates of delinquency and conditions of dilapidated and deteriorating housing. In addition, one often finds strong correlations between rates of delinquency and housing density. The connection between housing conditions and delinquency, as established by these findings, justifies the inclusion of efforts to promote decent housing as part of a total delinquency prevention plan.

Overcrowded and substandard housing contributes to a number of social and personal problems. Conditions of overcrowding reduce the levels of privacy that family members enjoy. Often, the lack of privacy leads to intrafamily tension and encourages children to spend most of their time on the streets rather than at home. Living in inadequate housing may affect an individual's sense of self-worth as well as feelings about others.

Poor housing also creates direct dangers to the health and safety of children. For example, children found to have eaten leaded paint peeling from walls have exhibited symptoms similar to children with minimal brain damage. Such health problems are thought, in many cases, to contribute to delinquent behavior.

Densely populated and poorly maintained public housing units long have been recognized as breeding grounds for crime and delinquency. Such buildings provide ample opportunities for illegal behavior that can go on undetected, and great concentrations of people within extremely limited living space are not conducive to the development of community ties that discourage youthful criminality. Many observers believe that inadequate housing may actually destroy community life and encourage many forms of deviant behavior.

Development of programs that attempt to provide decent housing for all members of the community should begin with an understanding of the many ways in which our living environment affects individuals and interpersonal relations. Housing construction should incorporate principles of environmental design that foster community life and provide optimum conditions for child development and growth.

There are many different aspects upon which housing and urban development agencies should focus their efforts to improve the overall quality of community housing. One component of any housing program should be the encouragement of construction of new housing units. Housing agencies should consider various uses of public land to develop new housing units, and all new construction plans should consider the shopping, recreation and transportation needs of potential residents. Units of local government should review zoning practices, building codes, availability of credit, and insurance issues, which may prevent the construction and ownership of new housing for and by low-income families. New housing should use the best available construction techniques and avoid construction of high-rise buildings. Building technology should promote minimum upkeep and maintenance costs for new residents.

Programs that promote decent housing through recycling existing housing units should be given priority. It is important to consider the reclamation of existing housing, so that deterioration and abandonment of existing structures can be prevented. There must be vigorous enforcement of housing codes and a program of incentives for property owners to improve and maintain the condition of their holdings in areas where recycling of housing is most important. One promising approach, Urban Homesteading, involves selling houses at nominal fees to persons who promise to make needed repairs within a specified period of time. To enable low-income families to afford new or recycled housing will, in many cases, require a program of subsidy payments.

Low-income families should be provided with advice about seeking better housing and the various options for purchasing or renting dwelling units. Families who rent should be fully advised of their rights as tenants. Units of local government should explore the possible advantages of sanctioning the practice of withholding rent by tenants in cases where a landlord consistently refuses to make needed repairs. The benefits of tenant organizations should be examined, especially for use in public housing projects. Effective tenant organizations may be successful in bringing problems to the attention of public authorities.

To achieve meaningful programs in housing, potential residents of new facilities should be involved in the planning and design of such programs. Too often housing developments planned without input from the prospective owners or tenants have neglected essential features, such as arrangements for transportation to employment areas. Programs that do not encourage responsible participation by community residents are doomed to fail. Community residents, together with planners and housing specialists, should develop an accurate sense of neighborhood housing needs and should translate those needs into a plan increasing decent housing that is sensitive to preserving community life and conducive to the healthy growth of neighborhood children.

In addition to programs that increase the housing available to low-income families, efforts must be made to reduce the negative effects of racial, sexual, and class discrimination in housing. Discriminatory practices often drastically reduce housing opportunities and contribute to the development of unhealthy patterns of segregated communities. Housing and urban development agencies should demand strict enforcement of the laws prohibiting discrimination in housing. In addition to use of existing laws, further research should be conducted into the causes of, and solutions to, patterns of segregated housing, which produce detrimental effects among residents of these areas.

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Related Standards

The following standards may be applicable in implementing Standard 3.39:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation

Standard 3.40

Housing—Street Safety

Local government agencies should insure the security of the citizenry by improving the environmental design of urban areas. This requires designing and utilizing public areas in such a manner as to discourage delinquent and criminal activity; encouraging frequent use of streets, sidewalks, parks, and other public areas enhances continuous public surveillance.

Commentary

Police departments are charged with law enforcement and keeping the peace. But crime is deterred often more by an informal and often unstated network of voluntary controls and standards that residents develop themselves for the protection of their community. Crime and delinquency are less likely to occur in communities where residents are sure to observe such activity and to make an appropriate and quick response.

In many urban communities the design and arrangement of structures have not facilitated easy surveillance of public areas by community residents. Maintenance of law and order in these areas has been left almost entirely to the police and special guards. Quite naturally, the public's response to the resulting increase in crime and delinquency has been to avoid these areas. This public avoidance increases the opportunity for criminals to commit their crimes with less fear of public detection.

A city's public places, its parks, streets and sidewalks, serve as natural buffers for private use of land for housing and retail establishments. Many experts believe it is futile to attempt to secure some private features of a locality, say interior courtyards or sheltered play spaces, without also dealing with the issue of unsafe city streets. Through the streets goes all of the traffic in and out of a community. City streets must not only protect a community from predatory strangers, but they must also insure the safety of all who pass along them.

In areas where the streets and sidewalks are gathering places for residents to talk, play, shop, or merely sit and watch, crime and delinquency rarely occur. The eyes of the community are continually surveying things, scanning for the usual, noticing the unusual. Efforts to design the environment so that public areas are rendered less important for these purposes consequently performs a disservice not only to community residents, but also to strangers who merely seek safe passage from one side to another.

The key to urban safety is street safety, and street safety is encouraged by three elements. First, the street and other public areas must be delineated clearly from private areas. Second, the street must be conducive to citizen surveillance. And, finally, the street must be used as continuously as possible.

The design of our buildings, thoroughfares, and open space will influence the extent to which these elements exist in our urban areas, where crime is the highest and fear the greatest. Buildings should provide ample opportunity for their residents to observe adjacent public areas; such surveillance maintains their publicness and promotes their safety.

Shops should be at street level, with visual access to the thoroughfare. Specialty shops, restaurants, and other business establishments that remain open at night should be interspersed among them. Street lighting should be ample, so that the eyes of the community are more effective and the identity of individuals easier to discern. People tend to feel safer when among others; activity attracts people and these people often attract others. The more the residents of a community can be made to view public areas as assets, the more they may wish to preserve them.

Although improved environmental design will not alter the motivation for delinquent and criminal behavior, it may reduce the opportunity for such activity. Thus, one solution for the reduction of crime seems to lie not in the design of urban fortresses, but in the ability of our physical environment to facilitate the citizen's sense of responsibility for personal safety and the safety of fellow human beings.

Programs to prevent crime through improved street lighting or re-lighting of high crime settings, such as playgrounds, have been implemented in many cities including Dallas, Indianapolis, St. Louis, Detroit, and Washington, D.C.

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Related Standards

The following standards may be applicable in implementing Standard 3.40:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards

Standard 3.41

Housing—Security Codes

Each community should develop building security codes designed to prevent or reduce the likelihood of criminal or delinquent activity in any new structure, public or private.

Commentary

Many urban buildings could provide greater safety for their residents if they incorporated security features. Delinquent activity seeks places where the risk of being caught is minimal. Structures that are accessible to the public but that include numerous concealed areas provide space for the undetected conduct of many types of delinquent behavior.

Knowledgeable writers on the subject of security and the physical environment have stressed the need for building designs that encourage continual surveillance of common areas by residents, as well as by those persons formally charged with security functions. Building materials and equipment also can be chosen for the degree of security they provide. The expense involved in supplying a building with crime retardants, such as proper locks and burglar and vandal resistant glass, is much lower when these safeguards are installed during construction rather than after building completion.

The development of building plans—industrial, commercial, or residential—should incorporate the knowledge of local law enforcement agencies in the methods of crime prevention. This means that local law enforcement should become involved in reviewing plans and making suggestions concerning the security features of planned new construction in each community. The same effort that historically has gone into the design of structures to make them fire resistant should also be devoted to deterring or reducing crime in and around these structures.

It would be a difficult task to construct a security code that would be appropriate for every community, and it is unlikely that a prescription for particular building styles or specific materials to be used could be formulated that would satisfy the environmental needs of all areas. Local government should be responsible for formulating criteria for security that take into account, among other considerations, community population density, the way in which most buildings are used (commercially or residentially), past crime problems, and the planned architectural design.

Security codes should set high minimum standards to minimize the likelihood that these codes will become obsolete quickly. They should, however, include enough flexibility to insure the esthetic quality of building design and to allow for the adoption of advanced security methods as they become available.

Security code requirements should be widely disseminated and easily accessible both to building owners and to tenants. Public knowledge and understanding of the codes would be a key factor in their successful implementation and enforcement.

In California, the Oakland Municipal Code calls for the installation of security devices in certain buildings used for business purposes, makes mandatory certain safety design features, and authorizes the chief of police to require additional devices where the code requirements do not secure a building adequately. The County of Los Angeles has adopted an ordinance covering commercial and residential areas and improves upon the Oakland approach by including actual resistance ratings for sliding doors and windows.

On the national level, there are several government-sponsored groups and private companies that have been conducting security systems research and training programs. The National Crime Prevention Institute (NCPI) at the University of Louisville, for example, offers crime prevention training and security systems theory that are useful in the administration of procedural building security programs. In addition, the American Society for Testing and Materials (ASTM) is involved in the development of nomenclature, test methods, specifications, and recommended practices for security systems and equipment.

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Related Standards

The following standards may be applicable in implementing Standard 3.41:

1.1 Developing a Comprehensive Delinquency Prevention Plan
2.1 The Local Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards

Standard 3.42

Religion—Contributions to Delinquency Prevention

Religious organizations should contribute to the delinquency prevention effort by providing counseling services, educating their constituencies about delinquency problems, offering their facilities for youth services, and developing their own delinquency prevention programs.

Commentary

Social pressures and conditions of poverty have an impact on family cohesion and also weaken the effect of spiritual and moral influences in the community. Many individuals and families who must contend with these daily pressures look to their religious leaders to help them cope with their problems. Community religious groups with solidly rooted credibility and acceptance contribute to the delinquency prevention effort by helping to stabilize the foundation of the community. Religious organizations encourage receptivity to moral principles.

If religion is to play an effective role in helping the community, religious values must be translated into social concerns and actions by the members of the religious group. Religious and lay leaders should educate their congregations about the social issues that affect the community and attempt to reduce public apathy. They should strive to establish a link between moral principles and social responsibilities. The religious organizations' resources of spiritual influence, facilities and equipment, trained personnel, and good community relations then could be mobilized to develop programs aimed at delinquency prevention.

Specific prevention programs might include training volunteers in social service and counseling. Speakers knowledgeable in the area of delinquency and its causes and prevention should be invited to speak at functions sponsored by religious groups.

The religious community should initiate service programs to enhance the supportive elements of family life and strengthen interpersonal relationships among family members. Religious organizations should offer counseling services to youth in the areas of mental and physical health, education, employment, and housing. Religious groups should develop a human services referral network, coordinated with other community agencies to avoid duplication of services. Followup services should insure that clients receive proper and immediately attention from the appropriate agencies.

Facilities of religious groups should be used for community-based child care centers, free medical clinics, remedial education, and recreation centers. Religious group members should provide services to the families of prisoners to ease their hardships;

religious based committees could reduce the inconvenience of visiting prisoners by providing transportation and could help maintain family stability by offering big brother or big sister programs.

Religious groups could develop programs in juvenile diversion and rehabilitation. Religious organizations could promote support for juvenile justice reform and social change by engaging their members in social action projects. In the area of juvenile justice reform, religious leaders and lay persons could become more acquainted with the operations of the juvenile court. They could monitor police and community relations and volunteer as members of local criminal justice planning agencies. Knowledge and information gained from this kind of involvement in turn can be communicated to others in the religious and secular community. Religious groups should support and participate in research that gathers critical information about delinquency and that can influence public policy.

Religious groups in many parts of the country have undertaken efforts to help prevent delinquency. In the Bedford-Stuyvesant area of New York, where traditional church programs seemed to appeal to only a small segment of the community, the Council of Churches implemented new efforts organized around a communitywide comprehensive program for delinquency prevention. Offering big brother programs, remedial reading courses, outreach services and drop-in recreational facilities, these campaigns have met with greater success in reaching the community youth.

Several churches in Lewisburg, Pa., located near a Federal prison, have initiated programs that aid families of inmates by providing breakfast and by furnishing transportation to the prison. The Church of Latter Day Saints has established family-to-prison programs at prisons in Utah, Texas, California, and Oregon. Members of the church bring a model family into the prisoner's life to serve as a communication link between and resource to the inmate and his familly.

In the area of criminal justice reform, the Dismas Program in Washington, D.C., the South Forty Corporation in New York City, and the Yokefellow Prison Ministry, Inc., which is active in 34 States, are representative of the religious community's attempts to develop alternatives to traditional criminal justice programs. Also the Church Women United, in Rochester, N.Y., has coordinated a task force on courts, studied court practices, and recommended reform measures.

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Related Standards

The following standards may be applicable in implementing Standard 3.42:

1.6 Integrating Individual Prevention Programs Into the Community Comprehensive Plan
2.1 The Local Role in Delinquency Prevention
2.7 Youth Participation

Standard 3.43

Media—Media as an Educational Force

The mass media should accept responsibility for being a positive educational influence on youth. Media activities should include development of policies to regulate the nature and extent of articles and programs designed to develop positive images for minority groups and greater internal regulation of advertising directed toward the youth market. All avenues for youth and citizen involvement in media productions should be explored.

Commentary

Many young people first encounter racial and ethnic groups through the medium of television, and their perceptions of them often are formed during these early encounters. If these groups are portrayed as stereotypes, a foundation may be laid that could serve as the basis for the young viewer's lifelong prejudices.

Television, radio, and print media should increase their efforts to develop programs and articles that are sensitive to the diverse nature of their audiences. Material of similar content could be presented in different formats that would appeal to different groups of viewers, listeners, and readers. Local efforts should be developed to the point where television stations and print media in large urban areas focus on specific groups of the urban population, especially the young.

The impact of television on viewer attitudes and behavior has exhibited itself in other forms as well. More and more educators believe that increased television viewing among young people is at least partially responsible for reducing their creativity, retarding their ability to express themselves in written form, and inhibiting their sense of inquisitiveness. Television advertising has increased and channeled consumerism among the young and heightened their quest for material possessions. Industry codes should be developed that reduce advertising practices that are likely to produce adverse behavior in children.

Ongoing media programs for youth have had noted success with employing young people to present educational material. Young people should have opportunities both to advise those responsible for television programming and advertising and to participate in programming, when possible.

Exploration of ways in which the quality of media offerings can be improved without rigid outside regulation should be increased. Perhaps more emphasis should be placed on recognizing and rewarding positive media achievements.

Related Standard

The following standard may be applicable in implementing Standard 3.43:
2.1 The Local Role in Delinquency Prevention

Standard 3.44

Media—Television Violence

Federal regulatory agencies and the television industry should as promptly as possible promulgate rules and regulations to immediately reduce and eventually to eliminate the dramatization of contemporary violence and dehumanization.

Commentary

The report of the U.S. Surgeon General on the impact of televised violence concluded that there is a causal connection between viewing violence and aggressive behavior, but that the effect of viewing violence is most significant on children predisposed to violent behavior. The Surgeon General's report also stressed the importance of family and peer influences in connecting the viewing of violence to actual violent behavior. Some have construed this guarded conclusion to mean that violence on television has no impact on delinquency; such an inference is incorrect. In terms of policymaking, it would be more effective to deduce from the Surgeon General's report that restrictions should be placed on the violence portrayed on television.

Studies have shown that children with some history of aggressive behavior are moved to act aggressively after viewing televised violence. Research also indicates that television violence promotes violent themes in children's play fantasies. Equally important, and as yet unknown, is the long-term effect on learning of viewing televised violence during the entire span of childhood. It is not hard to imagine the impact that the nightly reign of terror, mayhem, and blood on television can have on children's attitudes toward interpersonal aggression. The most conservative conclusion that can be reached is that televised violence serves no positive purpose in the socialization of children.

It is clear that the amount and intensity of television violence has increased greatly since the Surgeon General's report of 1971. That report showed that children's programming, and especially cartoons, were saturated with violent themes. The problem of exposing youngsters to a barrage of violent images continues with little sign of reversal of this trend.

Attempts to create a family hour, free from supposed negative influences on children only have produced a minor cutback in the number of hours devoted to violent themes. Indeed, some say that the family hour is followed by the murder hour, denoting an increase in the levels of violence shown during later evening hours. Although the family hour may be a positive step in reducing televised violence, it seems unrealistic to expect that all children will cease their television viewing by 8 p.m. Moreover, the violence of afternoon and weekend children's programming has not been curbed to any appreciable extent.

A net reduction in all kinds and levels of violence shown on television is the first step in a program to reduce the negative impact of this powerful communications medium on children. More rigid restrictions should be placed on programming specifically aimed at children. The television industry should develop a workable code of ethics that reduces televised violence. Public campaigns should be developed to discourage advertisers from supporting televised violence.

Federal regulatory agencies should structure their operating procedures to encourage restriction of televised violence, and to eventually eliminate from television the dramatization of contemporary violence. Many will argue that such action would violate the 1st amendment right of freedom of speech. The extent of Federal regulatory powers in this area has long been a subject of great debate. Although it is doubtful that the regulatory bodies can place restraints on the showing of specific programs prior to their airing, the courts have consistently held that regulatory agencies may interpret whether or not any station's programming has been in the public interest when deciding on renewal of the station operator's license. It is difficult to imagine anything more contrary to the public interest than unnecessary continuation of the factors contributing to an ever increasing violent society. The Federal agencies should consider this interpretation of the public interest when formulating their policies and should vigorously enforce regulations that can prevent the televising of violence.

If any doubt remains about the consequences of sustained exposure of children to violence on television, the Federal government should support impartial research that seeks to resolve these questions. Because there does not appear to be an argument for the positive value of televised violence, it would seem that the television industry should be made to justify any policy that could threaten the healthy development of children. Violence on television should be replaced with programming that promotes positive social values while entertaining young viewers.

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Related Standards

The following standards may be applicable in implementing Standard 3.44:

2.1 The Local Role in Delinquency Prevention
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention

Part 3
Police

INTRODUCTION

Effective action to prevent and control crime and delinquency requires a concerted effort by every segment of American society. In many respects, the modern police agency is the focal point of these efforts, because police represent perhaps the most visible component of the criminal justice system. When efforts to reduce crime fail, irate citizens generally complain to the police chief rather than to the council member, legislator, or judge.

The police did not create, and alone cannot solve, that many individual and group problems that generate antisocial conduct. However, police can and must play a critical leadership role in the community's overall program for preventing and controlling criminal and delinquent behavior. Police juvenile operations should be an integral part of that program.

According to the FBI Uniform Crime Reports, juveniles now account for nearly 50 percent of the arrests for serious crimes in the United States, compared to a mere 20 percent of such arrests in 1965. Thus the modern police organization cannot subscribe to the antiquated views of the past, when many police departments accorded juvenile units an inferior status, and officers viewed youth crime as a social work assignment unrelated to real police work. Instead, police departments should assure that adequate resources are devoted to juvenile operations, particularly in those areas where delinquent acts are a substantial portion of serious law violations. There the resources allocated to juvenile and adult offenses should be comparable, with the resources devoted to police handling of adult criminal matters.

Current police responsibilities and operating procedures are changing on every front, and juvenile operations should be no exception to this trend toward modernization and reform. Indeed, police policies on juveniles should receive special attention, for the delinquent youth poses not only unique problems but also a special challenge to juvenile justice systems as a whole. Ample evidence shows that hardened adult criminals often begin their careers with delinquent acts. Early identification and prompt correction of these cases are critical; they may deter or rehabilitate a substantial number of potential career criminals and thus make significant inroads against crime. The police serve on the frontline of these efforts.

Officers on the street have the initial contact not only with delinquent youths but also with runaways, drug abusers, and those who engage in various misbehaviors. Through preventive patrols and a variety of other programs, police often undertake considerable efforts to avert as well as respond to juvenile delinquency.

In all these operations, the relationship of the police to the community they serve is of vital importance. Community support is essential to effective police functioning. Police contact with juveniles is especially important because many juveniles unfortunately hold negative, stereotyped views of law enforcement authorities. A juvenile's perceptions—whether accurate or not—of contact with police can have a significant influence on the youth's developing personality. Thus, special care is required to insure that all juveniles are treated in a fair and impartial manner.

Juvenile operations present the police with a number of special concerns. As subjects of a special judicial system with its own procedures, juveniles must in some cases receive different treatment from that given their adult counterparts. Moreover, the juvenile system offers a number of alternatives for case dispositions without formal judicial proceedings. These alternatives are unavailable in the adult criminal process.

The age or immaturity of a delinquent youth also may raise special problems. For these reasons, it is important that police have clear-cut guidelines for the proper conduct of juvenile-related activities. Unfortunately, existing laws and departmental guidelines frequently provide only very general directions in this important area.

The standards in this section are intended to fill these gaps and provide cogent directions for police juvenile operations. Chapter 4 focuses on police roles and responsibilities in juvenile justice and delinquency prevention. The chapter outlines a number of important police responsibilities in juvenile-related activities, and sets forth general principles for all facets of juvenile operations.

Chapter 5 sets forth detailed guidelines for police intercession and operations in providing services to juveniles. The standards in this chapter focus on day-to-day police operations, including patrol, and provide specific directions for handling juvenile matters. Chapter 6 recognizes that the police agency is an integral part of the overall juvenile justice system and must be coordinated with each component of that system. Thus the chapter emphasizes relationships with other youth service agencies, and with the community's broader crime and delinquency prevention programs.

Chapter 7 covers the organization, planning, and management of police juvenile operations. Both the theory and practice of effective organization and management of police agencies have undergone radical revision in recent years. The standards in this chapter outline procedures for employing modern techniques to improve the design and implementation of juvenile operations.

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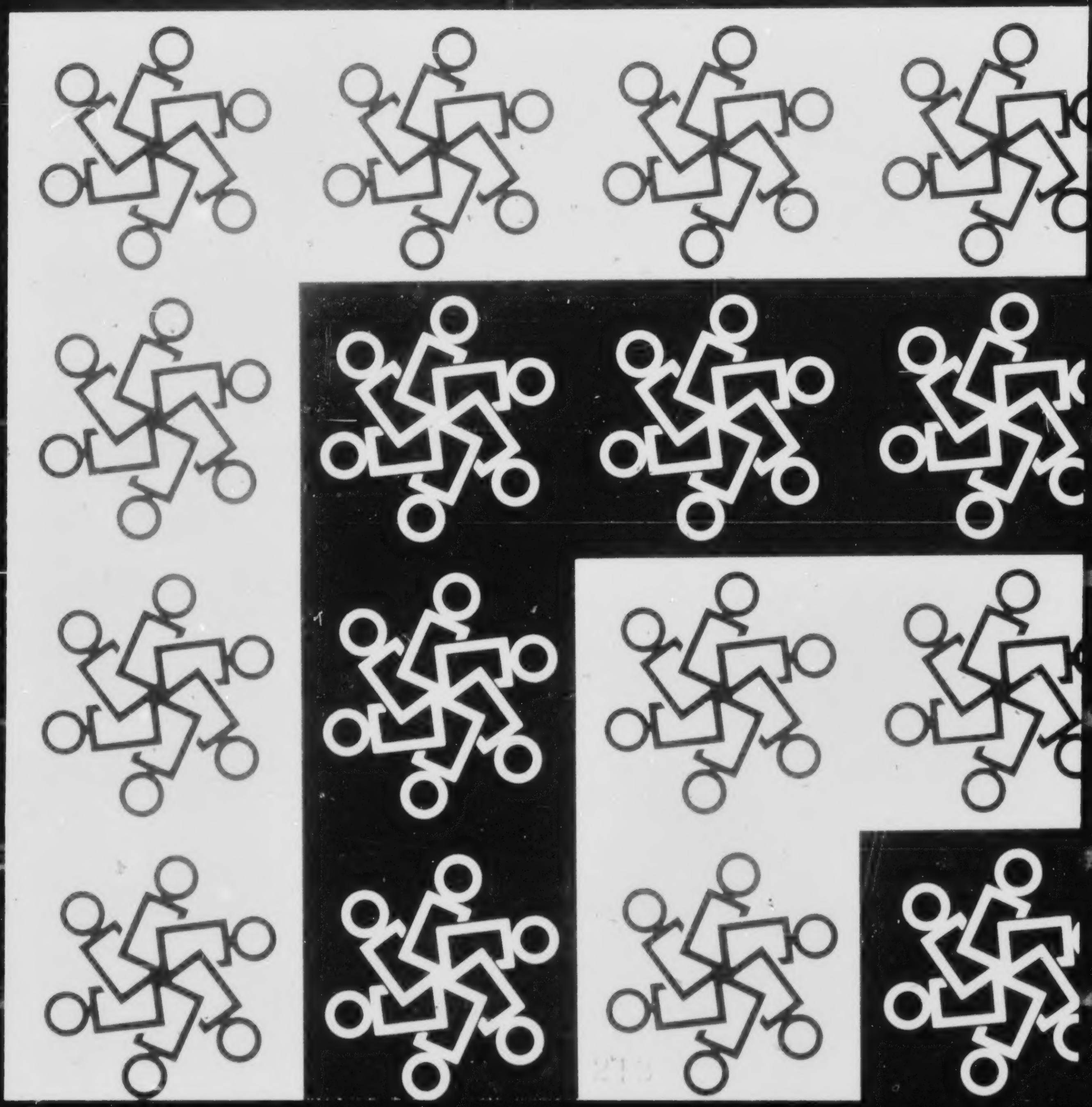
Chapter 4
Police Roles and Responsibilities in Juvenile Justice and Delinquency Prevention



INTRODUCTION

It is neither feasible nor appropriate to specify here the precise roles and responsibilities of police juvenile operations in widely varying communities. However, the standards in this chapter do set forth some important general principles.

At the outset, Standard 4.1 points out that police juvenile operations must be carefully tailored to each area, for such factors as a community's size, economic and racial composition, mores, and child rearing patterns have an impact on police handling of juvenile matters. However, certain general responsibilities are appropriate for all communities; thus, the standards stipulate that police should function in both an enforcement and prevention capacity, emphasizing neither role at the expense of the other.

The standards also emphasize that laws should be enforced and order maintained in an impartial, even-handed manner (see Standard 4.2). Discrimination on the basis of age, race, ethnic origin, or economic status has no place in any phase of law enforcement. This is particularly true in the handling of juveniles, whose experiences during their formative years exert a lasting influence on their attitudes toward authority.

The next two standards are closely interrelated. Standard 4.3 indicates that in dealing with juveniles, police should be authorized and encouraged to use the least coercive reasonable alternatives, consistent with preserving public safety, order, and individual liberty. Standard 4.4 states that police agencies should develop formal guidelines to clarify and control the use of police discretion.

The police are decisionmakers. Often they decide whether or not to apprehend a juvenile, and in many cases they determine whether the case should be disposed of without resorting to formal proceedings. In all cases, police should focus their attention on the protection and well-being of both the community and the juvenile. If a citation will suffice, it may well be inappropriate to take the juvenile into custody. Similarly, an appropriate adjustment at the station may make formal proceedings unnecessary. Written regulations should clarify departmental policy in each important area of police discretion. Such regulations should reflect the fact that where sound social, legal, and constitutional principles warrant, the procedures for handling juveniles should be different from those for adults (see Standard 4.5). Although this report does not outline all areas where different procedures are desirable, four guidelines can be highlighted as illustrations of this general principle:

1. There should be a broad range of dispositional alternatives for juveniles, including referral to youth service agencies;
2. Parents should be notified if a juvenile is taken into custody;
3. Juveniles should not be detained in the same facilities as adults; and
4. During interrogations of juveniles held in custody, police should insure that those juveniles consult with attorneys before waiving the right against self-incrimination.

Finally, police policy in juvenile justice and delinquency prevention must be closely coordinated with the efforts of other community organizations, and must be responsive to the needs of the community as a whole. Therefore, Standard 4.6, the last in this chapter, recommends that police broaden the scope of participation in policy formulation affecting juveniles to include laypersons, other juvenile justice system personnel, youth service organizations, and others working in a youth-serving capacity.

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Standard 4.1

Police Policy as an Expression of Community Standards

The police role in juvenile justice and delinquency prevention should be responsive to community needs. The police should function in both an enforcement and prevention capacity, emphasizing neither role at the expense of the other.

Commentary

The role of the police officer in juvenile justice and delinquency prevention is crucial. To a large degree, an officer's attitude and demeanor toward the juvenile will determine the latter's view of all ensuing procedures, and may structure future beliefs about the police and other professionals in the juvenile justice system. More importantly, police can influence a youth's self-concept. In fact, the extent to which a youth becomes involved in the juvenile justice system may be heavily influenced by an initial encounter with the police.

The appropriate police role in juvenile operations has been the subject of considerable debate. What the police do or should do is determined largely by such factors as the type of policing a community has come to accept; the ability of parents to control their own children; and the kind of ethnic, racial, and economic subgroups that make up the larger community.

In general, the police role in society has two dimensions: the reactive and the proactive. The former is the traditional police role of controlling crime and delinquency by enforcing the law—the principal reason for the existence of police in a democratic society. The second dimension—the proactive—involves police participation in activities designed to prevent crime and delinquency.

The police role in juvenile justice and delinquency prevention should be a combination of both enforcement and prevention, but neither should be emphasized at the expense of the other.

James Q. Wilson describes the service style of policing as one that implies fairly intense police reaction to crime and delinquency, and a high degree of face-to-face communication and cooperation designed to help parents and children. This style should evenhandedly meet the community's expectations and needs. In this capacity, police can fill a dual role: as officers who detect and suppress delinquent acts committed by juveniles, and as social service workers attempting to contain delinquency by participating in recreational programs, lecturing in schools, and working with a variety of community groups that deal with youth.

References

1. Illinois Institute for Continuing Legal Education. *Illinois Juvenile Law and Practice.* Springfield, Ill.: Illinois Bar Center, 1974.

2. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society.* Washington, D.C.: Government Printing Office, 1967.

3. Wilson, James Q. *Varieties of Police Behavior.* Cambridge, Mass.: Harvard University Press, 1968.

Related Standards

The following standards may be applicable in implementing Standard 4.1:

4.2 Police Responsibility in Protecting Integrity of the Law
4.6 Participation in Policy Formulation Efforts
5.1 Guidelines for Preventive Patrols and Early Identification of Juveniles With Problems
6.1 Participation in Community Planning Organizations

Standard 4.2

Police Responsibility in Protecting Integrity of the Law

The police objective in protecting the integrity of the law should be twofold: (1) to enforce the law and maintain order; and (2) to insure impartiality in enforcement.

Commentary

Law enforcement agencies must operate so that the rule of law is maintained in a wholly impartial manner. Such operation will insure that the intended spirit of American justice is served, and a genuine respect for police is generated and sustained. The opposite approach produces fear, distrust, division, and a decline in respect for the law.

Although police must strive to achieve the goal of impartiality, it is important to remember that individual police officers are subject to the same societal stimuli as other citizens. These influences can generate prejudicial beliefs and lead to actions based on unfounded assumptions, irrelevant criteria (such as age, race, sex, economic status, or religion), and discriminatory personal beliefs.

Because of the importance of police service and the abundant opportunities for abuse of police power, it is law enforcement that must overcome the inevitable personal biases of some of its officials by fostering impartiality in all aspects of operation through policies, trainng, and personnel practices.

Major police objectives are enforcing the law and the maintaining of order. These goals cannot be achieved without the respect and cooperation of the entire community, which stem from fair and impartial enforcement. Lack of impartiality causes rapid deterioration in the police officer's ability to serve, as evidenced by data on the staggering volume of unreported crimes, increasing lack of citizen cooperation with police investigations, and public harassment of officers. Whether accurate or not, the public's perceptions of police impartiality shape the community's attitude toward the police.

When the police interact with juveniles, the above considerations are even more vital. Beliefs, attitudes, and values fostered during those crucial early years of personality development will have lasting influences on a youth's behavior and actions later in life. Recognizing this essential fact is critical, for recent statistics show a startling rise in the amount of interaction between the police and juveniles. As just one example, the FBI's *Uniform Crime Report's* figures for 1974 show a 32-percent increase in the number of juveniles (those under the age of 18) apprehended for the seven most serious crimes between 1969 and 1974. The increase between 1960 and 1974 was a startling 143 percent.

Juveniles must be held acountable when they break the law, while the police themselves must protect the entire community impartially. When both of these conditions exist, the integrity of the law is preserved and protected.

Juvenile delinquency should be treated seriously, but this should not mean harsher, more formal sanctions for poor or minority group youths or those in single parent families. Police intervention in delinquency cases must be evenhanded. When police abuse their power, they seriously impair a juvenile's respect for constituted authority and produce deep resentment. Thus, it is particularly important that juveniles receive neither unfair nor degrading treatment.

Citizens often allege that police sometimes base their responses to youths on such factors as race, attitude, or grooming. However, some empirical research in this area indicates that such charges are not necessarily true. Studies, such as those conducted by Jerome Skolnick, advise caution in concluding that police permit admitted hostility against minority groups to influence their behavior.

Nevertheless, a recent three-city study found that police continue to link social class and juvenile delinquency. The study indicates that lower class youths often adopt a more hostile demeanor or use more belligerent language in contacts with police officers than do their middle class counterparts. Police may misinterpret such hostile attitudes as delinquency. After examining empirical data on this issue, the study concludes:

> If it is the case that demeanor is a key judgmental criterion for police, our research shows it to be a poor predictor. [Garrett & Short, "Social Class and Delinquency: Predictions and Outcomes of Police-Juvenile Encounters," *Social Problems* 368, 381 (1975).]

Thus, police officers must be extremely cautious in order to insure their impartiality in enforcing the law.

The phrase "preserving the integrity of the law" may connote idealistic social planning to an experienced juvenile justice worker. However, perceptive officials will recognize that, in this instance, such terminology integrates idealism and raw pragmatism.

Given the escalating volume and complexity of all law violations, especially those committed by juveniles, the police urgently need public respect and backing, which can only ensue from impartial enforcement of the law.

References

1. Federal Bureau of Investigation. *Crime in the U.S.—1974*. Washington, D.C.: Government Printing Office, 1975.

2. Garrett, Marcia and Short, James F., Jr. "Social Class and Delinquency: Predictions and Outcomes of Police-Juvenile Encounters," *Social Problems*, Vol. 22, February 1975.

3. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

4. New York City Police Department. *Youth Aid Division Annual Report*, 1973.

5. Skolnick, Jerome. *Justice Without Trial: Law Enforcement in a Democratic Society*. New York: John Wiley, 1966.

6. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 4.2:

4.4 Guidelines on Use of Police Discretion
7.9 Controls and Disciplinary Procedures

Standard 4.3

Use of Least Coercive Alternative

To respect family autonomy and minimize coercive State intervention, law enforcement officers dealing with juveniles should be authorized and encouraged to use the least coercive among reasonable alternatives, consistent with preserving public safety, order, and individual liberty.

Commentary

Although the police were originally considered part of the administrative branch of government only, in practice they have become quasijudicial officers. This is particularly true in juvenile cases. Because the juvenile system emphasizes individualized justice, the handling of juvenile matters requires a considerable amount of discretionary decision-making by police officers.

This standard stresses the importance of preserving family autonomy and minimizing coercive state intervention whenever feasible. Police officers should be authorized and encouraged to use the least coercive reasonable alternatives consistent with the proper execution of their duties.

The International Association of Chiefs of Police (IACP) has emphasized that police officers should have the right, based upon their training and experience, to use their judgment in suspending or modifying the enforcement of certain statutes (e.g., traffic laws). However, the general principle that police should employ only as much coercive action as the situation requires should be applied to all phases of police juvenile operations.

In some juvenile cases an official reprimand, coupled with parental assurance of proper discipline, may be sufficient. In other cases, an approriate adjustment at the police station or referral to community resources may make formal proceedings unnecessary (see Standards 5.7 and 5.10). Where formal action is required, the youth should not be taken into custody if a citation will suffice (see Standard 5.5).

References

1. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

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Related Standards

The following standards may be applicable in implementing Standard 4.3:

4.2 Police Responsibility in Protecting Integrity of the Law
4.4 Guidelines on Use of Police Discretion
5.5 Guidelines for Issuing Citations
5.7 Guidelines for Counseling and Releasing
5.10 Guidelines for Diversion or Referral to Community Resources

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Standard 4.4

Guidelines on Use of Police Discretion

To stimulate the development of appropriate administrative guidance and control over police discretion in juvenile operations, legislatures and courts should actively encourage or require police administrative rulemaking.

Police chief executives should establish administrative procedures to structure and control the use of discretion. These should include policy guidelines on the use of discretionary judgment when dealing with juveniles and training programs to acquaint officers with situations where discretion may be exercised.

Commentary

State legislatures have, for the most part, ignored the issue of police discretion and have limited statutes to defining the duties of law enforcement officers. Existing statutes imply that police have no right to make discretionary decisions in the performance of their duties. Moreover, some statutes can be interpreted as prohibiting discretion—notably those that make it a crime for officers not to make arrests for law violations committed in their presence.

Several major standard-setting bodies (among them the President's Commission on Law Enforcement and Administration of Justice) have formally recognized the need for police discretion and have called for guidelines on its use. For example, the American Bar Association has stated,

> Since individual police officers may make important decisions affecting police operations without direction, with limited accountability, and without any uniformity within a department, police discretion should be structured and controlled. [ABA, *Standards Relating to the Urban Police Function* 121 (1972).]

The Juvenile Justice Standards Project has agreed, noting that

> [there is] almost unanimous opinion that steps must be taken to provide better control and guidance over police discretion in street or station-house adjustments of juvenile cases. [IJA/ABA, *Juvenile Justice Standards Project Final Report, Planning Phase 1971–72* 215 (1973).]

This standard proposes that police discretion in juvenile operations be explicitly recognized and that guidelines be developed to clarify and control such discretion.

It is generally agreed that police already have considerable discretionary powers when dealing with juveniles. In many cities, for example, the police adjust more than 50 percent of their cases. However, departments that have issued guidelines on the use of this discretion are clearly the exception. Police officers in most departments are typically left to their own devices in deciding how to handle individual cases. As the IACP states:

> When departmental guidelines clearly spell out the course of action, the possibility of error on the part of the officer is reduced. If the department does not have clear guidelines determining the course of action to be followed, the officer must exercise discretion with no limits as to alternatives. As a result, the review of his actions can easily be defined by others as 'wrong'. [R. Kobetz and B. Bosarge, *Juvenile Justice Administration* 120 (1973).]

Without adequate guidelines, police handling of juveniles may be affected by such factors as the juvenile's race, attitude, or home situation; the victim's attitude; or the type of department (e.g., informal, highly legalistic). As the President's Commission on Law Enforcement and Administration of Justice pointed out, these factors often lead to discriminatory and arbitrary decisions by police officers. However, discretion can also have an opposite effect —that of informally adjusting, at the police level, cases of juveniles who would benefit more if they were handled through formal process. Thus, discretionary decisionmaking by the police can work both to the advantage and the disadvantage of the juvenile.

Several police departments throughout the United States (notably in Illinois, Wisconsin, and Massachusetts) have issued specific guidelines that can serve as helpful references in discretionary matters.

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2. Chambliss, W. J. and Seidman, R. B. *Law, Order and Power*. Reading, Mass.: Addison-Wesley Publishing Co., 1971.

3. City of Seattle Department of Police. Gen. Order Number 71–16 (July 28, 1971) amending *Manual of Rules and Regulations*, Sec. 3.13.020.

4. D.C. Code Ann., Sec. 4–143 (Supp. III, 1970).

5. Ill. Rev. Stat., Sec. 82, Chap. 125 (1969).

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8. LaFave, W. R. *Arrest: The Decision to Take a Suspect Into Custody*. Boston: Little, Brown and Co., 1965.

9. Manella, F. L., Nedrud, D. R., and Taylor, C. R. *The Illinois Youth Officer Manual*. Champaign, Ill.: University of Illinois Police Training Institute, 1972.

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11. Milwaukee Police Department. *Rules and Regulations*, Rule 32, Sec. 9.

12. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

13. San Jose, Calif., Police Department, *Police Manual*, Bk. 1, Vol. IV, Art. II, Pt. XVIII, Sec. 2118.4 (1970).

14. Statutes of New Mexico, Sec. 1, Art. 1, Chap. 39 (1970).

15. *U.S.* v. *Chicago, M., St. Paul and P.R. Co.*, 282 U.S. 311 (1931).

16. Wichita, Kans., Police Department. *Duty Manual*, Sec. 61.

17. Wilson, James Q. *Varieties of Police Behavior*. Cambridge, Mass.: Harvard University Press, 1968.

18. Wis. Children's Code, Sec. 1(b), Ch. 48.28.

19. Wisconsin Department of Health and Social Services. *Police-Juvenile Manual*, 1972.

20. Wis. Stat., Sec. 62.09(13) (1969).

Related Standards

The following standard may be applicable in implementing Standard 4.4:

4.3 Use of Least Coercive Alternative
4.5 Procedural Differences for Handling Juveniles

Standard 4.5

Procedural Differences for Handling Juveniles

There should be some procedural differences in police agency operations when handling juveniles. These differences should be based upon sound legal, social and constitutional principles. For example:

1. In handling juveniles, the police should be provided with dispositional alternatives such as referral of the child to social service and youth service agencies;

2. To the maximum extent feasible, the police should be required to notify parents or guardians when a juvenile is taken into custody;

3. The police should not detain juveniles in facilities which are utilized to detain adults; and

4. Police should exercise all due caution in complying with constitutional standards in the custodial interrogation of juveniles and should not accept an attempt by the juvenile to waive the right against self-incrimination without the advice of counsel.

Commentary

The juvenile justice system is based on the concept of *parens patriae* or, by implication, the rehabilitative ideal. Because of this orientation, the police and the courts have traditionally developed procedures for handling juvenile law violations that differ from those used for adults. One example is in the area of custody. All 50 States presently permit law enforcement officers to take a juvenile into custody on the same grounds that an adult can be arrested, but these statutes typically require police officers to handle juveniles in a special way. For example, the police may be required to notify the parents, a probation officer, or the court upon apprehension of the child.

Many statutes also permit police officers to take juveniles into custody for circumstances in which they would not be permitted to take an adult into custody, such as when the child is a runaway, neglected, or suffering from a sickness or injury that requires treatment. Similarly there are currently great disparities between police procedures in juvenile and adult cases with regard to diversion.

In keeping with the philosophy inherent in maintaining separate criminal and juvenile justice systems, this standard emphasizes that there should be procedural differences between police agency operations for juveniles and those for adults. However, these differences should be based on sound legal, social, and constitutional principles, and the objective should be to protect juveniles from the harsher aspects of the criminal justice system.

As an example of differing procedures, the police should have several alternatives available to them in terms of juvenile case dispositions; some of those alternatives may not be applicable to adults and include the following:

1. Release at the point of initial contact;
2. Release accompanied by an official report describing the encounter with the juvenile;
3. Release to the parent or guardian, accompanied by an official reprimand;
4. Referral to other agencies when the police recommend a rehabilitative program after more investigation;
5. Referral to the court without detention; and
6. Referral to the court with detention.

There is some question as to whether police have the authority to divert from the court system juveniles who have broken criminal laws. The President's Commission on Law Enforcement and Administration of Justice strongly endorsed this procedure, suggesting that minor infractions could be dismissed with a warning, moderately serious acts might be referred to a youth services bureau, and major law violations could go to court. (See also Standards 5.10 and 5.11.)

Custody is a second area in which police juvenile and police adult procedures should differ. Consistent with the approach of many existing statutes, police should be required to promptly notify parents or guardians whenever a juvenile is apprehended. Other important procedural differences should include not detaining juveniles in the same facilities as adults (see Standard 5.9). Also, when interrogating juveniles held in custody, police should assure that juveniles attempting to waive the right against self-incrimination have the advice of counsel (see Standard 5.8).

In general, the police should treat all juveniles with dignity and respect, and should refrain from discriminating against youths because of their social class, race, economic status, or prior history of delinquency. Of particular importance is the need to refrain from treating juveniles with a prior history of delinquency as "criminals." Such treatment often contributes to a self-fulfilling prophecy where juveniles begin to believe they are different or bad and act accordingly.

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8. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

9. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 4.5:

5.6 Guidelines for Taking a Juvenile Into Custody
5.8 Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination
5.9 Guidelines for Temporary Police Detention Practices
5.10 Guidelines for Diversion or Referral to Community Resources
5.11 Guidelines for Referral to Juvenile Intake

Standard 4.6

Participation in Policy Formulation Efforts

Police chief executives should broaden the scope of participation in police policy formulation affecting juveniles. Those who should participate include laypersons, other juvenile justice system personnel, community youth service groups, educators, and other community groups working in a youth-serving capacity.

Commentary

Because of diverse regional and local police needs in juvenile operations, police policy must be formulated at the local level in order to be effective. The role of the police chief executive in juvenile justice and delinquency prevention policy should be to develop clear guidelines that meet the needs of both the community and the department. In fulfilling this aim, the police chief executive should solicit input from the family court, other juvenile justice agencies, public and private youth agencies, educators, and private citizens.

As the American Bar Association concludes:

> [I]n its development of procedures to openly formulate, implement and re-evaluate police policy as necessary, each jurisdiction should be conscious of the need to effectively involve a representative cross-section of citizens in this process. [ABA, *Standards Relating to the Urban Police Function*, 14 (1972).]

It is true that some police departments have publicized their policies on juveniles, thereby involving the community to some extent. However, input from the public should be solicited when policies are first being developed, not after the fact.

Citizen involvement in the policymaking process should be mandatory for the following reasons:

1. If the police fail to deal with juveniles in a proper manner, a child or family may resist the efforts of agencies providing services for children and youth. Thus, subsequent rehabilitative efforts may fail. Juveniles should emerge from their police contact with positive attitudes toward the police because they have been treated fairly and with respect, regardless of their problem behavior. Citizens can thus make an important contribution in discovering and bringing forth existing police problems in handling juveniles.

2. The police are directly involved in discovering actual or potentially delinquent juveniles, and are often the first to become aware of community conditions likely to promote delinquency. But citizens also are aware of many such conditions that may not come to police attention. Citizens who cooperate with the police and who provide input into the policymaking process become an invaluable police department resource.

3. In order to work with delinquents, potential

delinquents, and their families, police must understand human behavior, community problems, and social trends. This understanding cannot be gained if the police are isolated and aloof from the citizens they serve.

4. The police alone cannot prevent and control delinquency. They must work cooperatively with schools, the family court, social agencies, and interested citizens in a community-centered approach to delinquency prevention.

Because the family is such an important element in the prevention and control of delinquency, police departments should draw their clients' families into departmental youth operations. One possible method of facilitating participation is by developing a local juvenile justice community relations program that would enable parents to help professionals detect the known problems and frustrations that produce delinquent behavior in children.

This program could involve a study of ethnic and cultural differences, poverty, and learning disabilities among specific community groups. Through such an alliance with the family, the police department could become more responsive to the individual needs of its clients and the community.

It is also important for the police to develop policy with other juvenile justice agencies, particularly the family court. For example, the IACP has recommended that the police department and the court adopt written policies on the disposition of juvenile cases at the police level. Such policies should clarify the use of discretionary police judgment (see Standard 4.4).

Police chief executives, other juvenile justice agencies, and citizen advisers may develop sound policies that conflict with prevailing legislative and judicial directives. In such cases, the chief executives should present their viewpoints to those responsible for existing laws and procedures, and should attempt to resolve the problem through discussions and compromise.

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Related Standards

The following standards may be applicable in implementing Standard 4.6:

4.4 Guidelines on Use of Police Discretion
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
7.4 Citizen Involvement in Evaluation of Juvenile Operations

Chapter 5
Guidelines for Police Intercession and Operations in Providing Services to Juveniles

INTRODUCTION

In recent years there has been a dramatic increase in the number of police contacts with juveniles for serious crimes as well as a large number of cases involving less serious delinquent conduct. Police frequently handle cases involving runaways, truants, or youths who engage in other misbehaviors. Moreover, the police are often the first officials involved in cases involving Endangered (i.e., neglected or abused) Children. The dual role of the police as catcher of criminals and helper or protector of citizens is greatest in the juvenile area.

In all these situations, the officers involved must usually act without direct supervision and must have a thorough knowledge of appropriate procedures in order to do so. Unfortunately, many facets of police juvenile operations are gray areas in which existing laws and departmental guidelines provide few clear-cut directions. As a result, the actions of well-meaning police may be adjudged improper by their commanding officers, or the police may inadvertently violate a juvenile's rights. The standards in this chapter attempt to remedy these problems by outlining specific directions for police operations involving juveniles.

First, the standards focus on preventive patrols and early identification of juveniles with problems (see Standard 5.1). The standards underscore the importance of (1) creating an environment that will prevent the occurrence of crime and delinquency, and (2) implementing a carefully controlled procedure for contact cards on incidents for which a full report is not submitted.

Because patrol officers are often the first officials involved in juvenile misbehavior, the standards next focus on the general duties of these officers (see Standard 5.2). The special problems posed by Endangered Children are discussed in Standard 5.3, which details appropriate procedures for dealing with these cases both in and out of the home.

The next series of standards focuses on those processes whereby a juvenile apprehended by the police may either be brought before the court or diverted from formal proceedings. In general, juvenile investigations should be as thorough as those of adults, and such inquiries should also attempt to discern the underlying cause of the misbehavior. In addition, Standard 5.4 emphasizes the importance of safeguarding the youth's constitutional rights.

Consistent with the philosophy of employing the least coercive reasonable alternative, Standard 5.5 recommends that, whenever feasible, a juvenile should be issued a citation rather than be taken into custody. Standard 5.6 then focuses on taking juveniles into custody, emphasizing the need for clearly defined police intercession procedures in all types of conduct for which coercive intervention is authorized.

Recognizing that some juveniles taken into custody can be adequately treated without formal proceedings, Standard 5.7 suggests the use of adjustments at the station, emphasizing that these should be limited to release and referral and should not include police probation. Standard 5.8 then specifies guidelines for custodial interrogation and the procedures necessary for competent waiver of the right against self-incrimination.

The next three standards, 5.9, 5.10, and 5.11, focus on temporary police detention, diversion and referral to community resources, and referral to juvenile intake. They emphasize that police detention should be protective, not punitive, and should be employed no longer than necessary to refer juveniles to intake or return them to their parents. These standards also call for explicit criteria for diversion programs and indicate that formal proceedings should be limited to cases involving serious delinquent conduct or repeated law violations of more than a trivial nature.

The remaining standards in the chapter relate to identification procedures and records. Juveniles should be accorded the right to counsel in lineups, and Standard 5.12 sets forth procedures to insure that waiver of this right is competently and voluntarily made. Standard 5.13 stipulates that fingerprinting and photographing should be used for investigatory purposes only. In addition, the standards call for legislation to prevent the release of information or photographs of juveniles to the news media except in cases of dangerous fugitives (see Standard 5.14). Finally, Standard 5.15 stresses that access to basic police records on juveniles should be limited to those with a demonstrated need to know.

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Standard 5.1

Guidelines for Preventive Patrols and Early Identification of Juveniles With Problems

The police department should direct its efforts to help create an environment in the community that will serve to prevent crime and delinquency. The prevention program should include the following elements:

1. The Patrol Division should conduct a roving surveillance designed to prevent juvenile delinquency, frequently checking places where juveniles may become involved in deinquent acts and easily become victims of crimes. Patrol personnel should maintain continuous and conspicuous operations in such areas;

2. For minor law violations, police patrol officers should be required to complete contact cards after each incident in which a full report is not submitted. The parents or guardians of the juvenile should be notified that a contact card has been filed and should be given an opportunity to question and discuss the information contained in the report;

3. The importance of maintaining positive, open communication with juveniles should be stressed to all officers.

Commentary

Many people, including many police officers, tend to believe that the police operate only on an after the fact basis. That is, that they should respond to crimes that are in progress or have been committed. However, one of the primary objectives of the police mission should be to hold criminal and delinquent behavior to a minimum through prevention activities. Only when prevention fails should the police identify and apprehend law violators.

Police can accomplish a major part of these delinquency prevention activities through the use of preventive patrols operated by the patrol division. Preventive patrol is the planned, purposeful deployment of officers to secure maximum coverage of situations and areas to prevent crime and delinquency through the deterrent effect of the presence of police. The police should concentrate on preventing major, violent crime and delinquency committed by or against juveniles. This is not to say that minor law violations should be ignored; however, it is major crime that requires the most attention.

During the course of routine patrol activities, officers should frequently check those places where juvenile delinquency may occur or where juveniles may easily become the victims or perpetrators of crimes. The objective should be to suppress conditions in the community that might lead to delinquency or crime. Such places include:

1. Pool halls, bowling alleys, and amusement centers where unsupervised youths congregate;

2. Dance halls, bars, or cafes where juveniles may be assaulted or encouraged to drink or solicit for immoral purposes;

3. Bus and train stations, and parks, particularly their public restrooms, where drugs may be sold or juveniles may be solicited or abducted for immoral purposes;

4. Neighborhoods with high rates of family disturbances where intrafamily crimes may involve violent acts by or upon juveniles; and

5. Areas associated with gang activity.

During the normal patrol of a city, police become aware of such danger areas. Therefore, the juvenile bureau should effectively use the services of the patrol division in conducting frequent surveillance of such areas. In addition, the patrol division should be encouraged to assign officers to the same beat routinely so they can become familiar with situations that might lead to delinquency and crime.

Patrol officers should also be required to submit periodic reports to the patrol commander about specific problems on their beats that may affect juveniles. Such actions will allow remedial steps by patrol and the juvenile commanders to correct these problems. For example, the juvenile commander can meet with proprietors of businesses frequented by juveniles and enlist their help in protecting young people and contributing to their welfare. Such an approach may, in the long run, produce better results than the constant use or threat of court action.

While on preventive patrol, officers have an opportunity to participate in the early identification of youths with behavior problems. The immediate correction of a juvenile's improper conduct holds the greatest promise for long-term societal gain. However, this direction must be applied when the police first become aware of misbehavior, in order to prevent the youth's further contact with the formal juvenile justice system.

The police are usually the first official representatives of society to take action when the behavior of a youngster is contrary to public welfare; it is the police officer who steps in to stop the offending behavior. Thus, police are in a strategic position to learn about juveniles whose problems may lead them into delinquent conduct.

When officially stopping these juveniles for questioning or when handling minor delinquent acts, police officers should be required to complete contact cards for each incident in which a full report is not submitted. These cards should record the youth's name, age, address, telephone number, the names of parents or guardians, and a brief description of the reason for stopping the juvenile on the street.

In order to protect the rights of juveniles against unfair, improper, or biased intervention, police should notify the parents or guardians each time a contact card is filed so the parents can correct erroneous information, discuss the conduct that led to the police encounter, and take measures to correct that conduct. Through this early police intervention, parents can frequently be encouraged to consult qualified social agencies for assistance before delinquent patterns develop. Police conduct in all cases involving juveniles should promote and encourage reform of the youth's behavior.

Each police department should insure that contact cards are destroyed after a specified period of time. Such a procedure is necessary to prevent the accumulation and long-term retention of outdated information.

Police officers should also maintain positive, open communication with youths, both through community relations programs and the way the officers make themselves visible in the community. What James Q. Wilson describes as the service style of policing integrates community relations and public education programs with the other law enforcement pursuit. Such a style permits the police to intervene in juvenile problems more frequently but less formally than is traditional. In communities that practice the service style of policing, there are fewer arrests of juveniles for what can be described as minor or less serious infractions.

References

1. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. Kenney, J. P. and Pursuit, D. G. *Police Work With Juveniles and the Administration of Juvenile Justice*. Springfield, Ill.: Charles C. Thomas, 1975.

3. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

4. Wilson, O. W. *Police Administration*. New York: McGraw-Hill, Inc., 1963.

Related Standards

The following standards may be applicable in implementing Standard 5.1:

4.3 Use of Least Coercive Alternative
5.2 Guidelines for Patrol Officers

Standard 5.2

Guidelines for Patrol Officers

The duties and responsibilities of patrol officers should include:

1. Taking appropriate action when observing delinquent acts in progress; responding to all dispatches and appropriately processing all requests for service in juvenile matters; and completely investigating all cases. These duties include preserving evidence and, when warranted, taking juveniles into custody, except in those cases that require the attention of specialists;

2. Responding to family disturbance calls in an expeditious and safe manner and, where necessary, taking appropriate action in accordance with the Standard on Guidelines for Police Intercession for the Protection of Endangered Children (Standard 5.3);

3. Securing emergency medical treatment, according to procedures established by specific legislative directives, for children needing immediate attention, and immediately reporting cases of Endangered (Neglected or Abused) Children to the appropriate State agency;

4. Keeping order on streets and highways, enforcing all moving traffic violations involving juveniles and investigating traffic accidents, unless instructed to do otherwise by traffic division investigators;

5. Providing for the safety of children attending school by surveilling for persons who loiter on or near school property, and intervening immediately when observing potential or inprogress criminal or delinquent activities or dangerous situations on or near school property; and

6. Apprehending and protecting juveniles from homes of Families With Service Needs when requested to do so by police-juvenile officers.

Commentary

Juvenile delinquency prevention and control is a function of the entire police department. It is important that uniformed patrol officers be trained to handle juvenile problems as they are often the first representatives of the police department to come in contact with juveniles. Generally speaking, the purposes of the uniformed patrol division are to eliminate actual or suspected opportunities for crime and delinquency, regulate conduct, create an environment of security and stability in the community, and provide services to the public. Patrol officers can accomplish these objectives through preventive patrols and responses to service calls.

With reference to law violations involving juveniles either as perpetrators or victims, patrol officers have the responsibility to initiate action in any occurrences that come to their attention. Police juvenile officers should also be called upon when a followup investigation is required or special circumstances exist.

One innovative approach toward more effective patrol efforts is the concept of team policing, in which a team of patrol officers is assigned to a given area of the community and given full responsibility to perform normal patrol duties. In addition, the team develops greater involvement in the community by participating in citizens' group meetings and by visiting area residents in their homes and businesses.

Team policing, because of the relatively permanent assignment of patrol officers to the same area, enables the police to become more fully aware of situations on their beats which can contribute to delinquency and of places where juveniles can easily become the victims of crime. In addition, team policing permits patrol officers to become acquainted with juveniles who live in or frequent an area. This acquaintance gives police a greater opportunity to detect and forestall delinquent tendencies.

Patrol officers are also the first officers to respond to family disturbance calls and, as such, may discover seriously endangered children. Detailed guidelines on police intercession for the protection of those in the Endangered Children category are set forth in Standard 5.3.

Patrol officers may also be required to secure emergency treatment and care for children. Each State should establish statutory guidelines for appropriate action in this area. Furthermore, patrol officers should immediately report all situations of actual or suspected child abuse or neglect to the agency responsible for filing Endangered Child petitions, for purposes of followup investigation.

Officers should take direct action only in the situations they personally witness or encounter—for example, an abandoned or abused child found on the street. Police should not remove a child from the home unless such action is authorized. (See Standard 12.9 on the Emergency Removal of Endangered Children From the Home.)

In addition to normal patrol duties designed to prevent and suppress crime and delinquency, patrol officers are also responsible for enforcing regulations and investigating accidents, unless they are instructed to do otherwise by traffic investigators. Because a majority of these offenses involve juveniles, patrol officers make many contacts with youth. These contacts should be handled as warranted by the patrol officer, who should call upon juvenile officers for followup investigation if necessary.

Patrol officers should avoid entering schools in uniform except when in hot pursuit, when called in to quell a disturbance, or when invited in by the principal or faculty. The sight of a uniformed patrol officer in the school building generally disrupts classes and creates a disturbance among the students, who may attempt to determine the purpose of the visit.

If officers must enter schools to conduct investigations, they should first make their presence and purposes known to the principal, and should conduct investigations as discreetly as possible. Unless there is a police-school liaison officer assigned to the school on a full-time basis, the uniformed patrol officer should also provide for the safety of children attending the school by frequently checking the school grounds and adjacent areas for loiterers, older juveniles selling drugs, and other persons who could present a threat to children.

When called upon, the patrol officer should also assist juvenile officers in the detection and apprehension of runaways, truants, and other children in the Families With Service Needs category. Because of their continuous roving surveillance, patrol officers have a unique opportunity to observe and locate such children.

References

1. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

Related Standards

The following standards may be applicable in implementing Standard 5.2:

5.1 Guidelines for Preventive Patrols and Early Identification of Juveniles With Problems
5.3 Guidelines for Police Intercession to Protect Endangered Children
5.6 Guidelines for Taking a Juvenile Into Custody

Standard 5.3

Guidelines for Police Intercession to Protect Endangered Children

Police should have clear statutory authority to intercede and provide necessary protection for children whose health or safety is endangered. Statutes should specify the following:

1. When a child is endangered in an environment other than the home, police should remove the child from danger and make maximum possible efforts to return him or her to the home;

2. When a child is endangered in the home, police should make maximum possible efforts to protect the child without resorting to removal from the home;

3. When the child is endangered in the home and removal is necessary to prevent bodily injury, police should be authorized to remove the child according to the procedures established by Standard 12.9 on emergency removal of endangered children from the home.

Commentary

Most States presently authorize police to intercede and provide necessary protection for children whose health or safety is endangered. However, some jurisdictions fail to provide explicit statutory authority for this type of intercession, and many State statutes offer little guidance for dealing with these situations.

Obviously, it is very important for police officers to be able to take prompt action to prevent a child from being harmed. However, in the absence of clear-cut guidelines, the well-meaning officer may inadvertently violate the rights of the parents or child by overstepping the bounds of proper authority. Therefore, this standard sets forth guidelines for appropriate police action in interceding to protect Endangered Children.

The standard distinguishes between cases where the child is endangered outside or within the home. In the first case (where, for example, a small child is found wandering unattended near a freeway), the standard indicates that the police should protect the child from danger and make maximum possible efforts to return him or her to the home.

This approach is in keeping with the philosophy that intervention should involve the least coercive means, provided it is adequate to protect the child. Once the child is returned home, further investigation may then be warranted to determine if an Endangered Child petition should be filed. The police officer should immediately contact the agency responsible for filing this petition if such an investigation is required.

Cases may arise where despite maximum efforts, an officer is unable to determine where a child lives. In these situations, placement of the Endangered Child in police detention facilities should be strictly prohibited. Guidelines for emergency out-of-home placement in other facilities are set forth in Standard 12.10.

The second type of case, where the child is endangered within the home, should be treated with particular care, because police action here may involve a significant infringement on family autonomy. Police should make the maximum possible efforts to protect the child within the home without resorting to removal.

Elsewhere in the volume, standards advocate the use of emergency inhome caretaking services. Removal from the home can prove emotionally upsetting for the child and should be avoided unless it is essential for the child's protection.

Standard 12.9 stipulates that police should be required to secure prior court approval in removal cases unless there is not enough time to do so. However, if time constraints make it impossible to obtain court authorization and the other criteria for removal are met, the officer should take prompt action to protect the child.

References

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placement of Children.* New York: Institute for Judicial Administration (tentative draft 1976).

2. DeFrancis, Vincent and Lucht, Carroll. *Child Abuse Legislation in the 1970's.* Denver: American Humane Association, Children's Division, rev. ed. 1974.

3. National Conference of Commissioners on Uniform State Laws. *Uniform Juvenile Court Act.* Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

4. New York Family Court Act, Sec. 1021–28 (McKinney Supp. 1971).

Related Standards

The following standards may be applicable in implementing Standard 5.3:

12.9 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home

12.10 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From an Environment Other than the Home

Standard 5.4

Guidelines for Police Juvenile Investigations

Investigations of law violations by juveniles should be made as quickly as possible and should be as thorough and complete as the investigations of adult offenses. Equally important, the juvenile unit investigator should attempt to determine the underlying causes for the law violation, in order to assist in the rehabilitation process. Police investigators must also take every necessary precaution to safeguard the constitutional rights of juveniles being investigated in connection with a criminal offense or delinquent act.

Commentary

Police juvenile investigation units coordinate the processing of all cases involving juveniles, gather and collate information on delinquent activities, investigate all juvenile law violations, apprehend violators, and recover property. The unit's investigators should aid patrol officers when necessary, and should be responsible for followup investigations of all delinquency cases that cannot be completed by patrol officers.

This standard emphasizes that investigations of law violations involving juveniles should be as thorough and complete as investigations involving adult suspects. This is important not only to insure proper handling of all cases within the juvenile system, but because some cases may subsequently be transferred to adult criminal courts.

The standard also indicates that investigators should seek to determine the underlying causes for the law violation, in order to provide an intelligent basis for referral or disposition of the juvenile and to aid in the rehabilitation process.

Finally, the standard specifies that police investigators must be extremely cautious not to violate the constitutional rights of juveniles being investigated. Youths questioned or interviewed in situations where a charge may be forthcoming should be advised of their right to counsel (see Standard 16.1) and their right to remain silent (see Standard 5.8). Other specific legal issues in police juvenile investigations are discussed in Standard 5.6, Guidelines for Taking a Juvenile into Custody; Standard 5.12, Guidelines for Lineups; and Standard 5.13, Guidelines for Fingerprinting, Photographing, and Other Forms of Identification.

Reference

1. Kenney, J. P. and Pursuit, D. G. *Police Work With Juveniles and the Administration of Juvenile Justice*. Springfield, Ill.: Charles C. Thomas, 1975.

Related Standards

The following standards may be applicable in implementing Standard 5.4:

5.6 Guidelines for Taking a Juvenile Into Custody
5.8 Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination
5.12 Guidelines for Lineups
5.13 Guidelines for Fingerprinting, Photographing, and Other Forms of Identification
16.1 Juvenile's Right to Counsel

Standard 5.5

Guidelines for Issuing Citations

Police departments should make maximum effective use of State statutes permitting police agencies to issue a written citation and summons to appear at intake in lieu of taking a juvenile into custody. A copy of each citation and summons should also be forwarded to the juvenile's parents or guardians.

Commentary

Citations are generally employed where there is a strong likelihood that the juvenile will appear in court when requested to do so. The use of citations rather than custody is consistent with these standards' overall philosophy of using the least coercive among alternatives consistent with the proper execution of police responsibilities (see Standard 4.3).

A model citation release program has been developed by the Oakland, Calif., Police Department, as described below:

> The program provides for both field and station-house release of all misdemeanants, not on the basis of offenses committed, but on the basis of an objective standard that constitutes department policy. The standard uses the mnemonic device CCIIRR to determine eligibility: Continue—offense likely to continue; Care—in need of medical care (e.g., drunk, prostitute); Identification—inadequate; Investigation—further investigation needed (charged crime or other); Risk—a bad one in the view of the officer; and Refuses—to sign citation. [National Advisory Commission on Criminal Justice Standards and Goals, *Police* 84 (1973).]

Although this program has worked well with adults, additional precautions should be taken when issuing citations to juveniles. Therefore, the standard specifies that the officer should forward a copy of each citation and summons to the juvenile's parents or guardians.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Police*. Washington, D.C.: Government Printing Office, 1973.
2. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 5.5:

4.3 Use of Least Coercive Alternative
5.6 Guidelines for Taking a Juvenile Into Custody

Standard 5.6

Guidelines for Taking a Juvenile Into Custody

The police are authorized to take into custody all juveniles who violate criminal statutes and/or ordinances of the local, State, or Federal Government.

In addition, every State should clearly define by statute the authority and guidelines for, and limitations on, taking a juvenile into custody in Families With Service Needs cases and Endangered Child cases.

Whenever a juvenile is taken into custody the police should:

1. To the maximum extent possible take immediate affirmative action to notify the juvenile's parents or guardians; and

2. Immediately notify the juvenile of his constitutional rights and refrain from any action that would abridge or deny these rights.

Commentary

The authority of State and local governments to intervene in juveniles' lives is derived from Federal and State constitutions, State statutes, local ordinances, and the court interpretations of these laws. Some laws proscribe certain actions or omissions by either juveniles or adults; when juveniles violate these statutes their actions are usually termed delinquent. Other laws authorize State intervention in juvenile conduct that would not be considered unlawful if committed by an adult (e.g., running away from home).

At present, these situations are identified as status offenses, persons (or children) in need of supervision, dependency cases, and neglect. In this report such cases are covered by the standards on Families With Service Needs and Endangered Children (see Chapters 10 and 11).

In the juvenile justice system, the term arrest is generally not used. Instead, when police officers apprehend youths they take them into custody. Every State presently authorizes the police to take a juvenile into custody in all cases where they are authorized to arrest an adult. However, this authorization does not necessarily mandate the same set of procedures in juvenile cases as in adult criminal matters.

Consistent with the fourth amendment to the U.S. Constitution, a police officer can arrest an adult with or without a warrant, if there is probable cause (as defined by the decisions of the U.S. Supreme Court) to believe that a crime has been or is being committed and that the person being arrested is the perpetrator. Generally, police officers can arrest an adult for a misdemeanor only if the act is committed within the officer's sight and hearing; otherwise a warrant is necessary.

The precise extent to which juvenile procedures are required to parallel these adult requirements has been the source of considerable debate among practitioners and commentators alike. Some writers have emphasized the protective nature of the juvenile justice system and the historical differences in procedures for taking juveniles and adults into custody. Other writers have emphasized that, since the *Gault* decision, virtually all courts passing on the applicability of *Miranda* safeguards to juveniles have concluded that those safeguards apply. Therefore, these writers maintain, the procedures for adult and juvenile arrests are for all practical purposes the same.

The U.S. Supreme Court has not yet resolved these issues. Thus, at present the police are justifiably uncertain as to what is required of them in taking a juvenile into custody.

This report's standard on custodial interrogations indicates that juveniles should be given *Miranda* warnings (see Standard 5.8), and should be promptly notified of their constitutional rights. Thus, except for the corollary issues on waiver of constitutional rights (see Standards 5.8 and 12.3), police procedures for taking a juvenile into custody on delinquency charges should essentially parallel the procedures employed in adult arrests. However, there is also the additional requirement of prompt notice to parents or guardians of the action taken.

This report also maintains that the State's powers to intervene coercively in juvenile conduct ought to be broader than they are in the case of adults. This means that the family court should have jurisdiction over Families With Service Needs and Endangered Child cases. It also means that the police should be authorized to take into custody the juveniles involved in these cases. Every State should clearly define by statute the authority and guidelines for, and limitations on, proper police action in these cases.

With the possible exceptions of runaways, police authority to take into custody a youth who is part of a Family With Service Needs should not include the authority to place that youth in police detention. If out-of-home placement is required, the police should follow appropriate procedures for placing the youth in shelter care (see Standards 5.9 and 12.8). Similarly, if it is impossible to return an Endangered Child to the parents, police should promptly deliver the child to the appropriate agency. (Detailed directives for statutes on taking Endangered Children into custody are set forth in Standard 5.3.)

Whenever a juvenile is taken into custody on any grounds, police officers should make every possible effort to notify the parents or guardians immediately. The juvenile should have the right to receive family advice and support, and it is important that the family be fully informed of the situation.

Juveniles should also be fully informed of their constitutional rights. In questioning youths about crimes or delinquent acts they may be involved in, police should give the warnings required by the *Miranda* decision (see Standard 5.8). Overall, the police should treat juveniles with fundamental fairness, safeguarding their rights at every step of the proceedings. Police should not accept any attempts by the juveniles to waive their constitutional rights without first consulting their attorneys (see Standard 12.3).

One final caveat is necessary. Police officers should be aware that when taking a child into custody they may be personally liable under State law. The improperly arrested juvenile may be able to sue under laws governing false arrest, malicious prosecution, tresspass, or assault and battery. The juvenile's parents may also be able to bring a legal action. Thus, statutes and departmental guidelines should provide detailed clarification of the procedures for taking juveniles into custody in order to protect juveniles and police alike.

References

1. *Aguilar* v. *Texas,* 378 U.S. 108 (1964).

2. Calif. Welf. & Inst. Code, Sec. 625 (1972).

3. Conn. Gen. Stat. Ann., Sec. 17–66(d)(a) (Supp. 1973).

4. Davis, Samuel M. *Rights of Juveniles.* New York: Clark Boardman Co., 1974.

5. *Davis* v. *Mississippi,* 394 U.S. 721 (1969).

6. *Ex Parte Sharp,* 15 Idaho 120, 126–28, 96 P. 563, 564–65 (1908).

7. Ga. Code Ann., Sec. 24A–1301(b) and Sec. 24A–101 (Supp. 1973).

8. *In re Gault,* 387 U.S. 1 (1967).

9. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placement of Children.* New York: Institute for Judicial Administration (tentative draft 1976).

10. Luger, Milton. "The Youthful Offender," in President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

11. *Miranda* v. *Arizona,* 384 U.S. 436 (1966).

12. National Conference of Commissioners on Uniform State Laws. *Uniform Juvenile Court Act.* Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

13. National Juvenile Law Center. *Law and Tactics in Juvenile Cases.* St. Louis: National Juvenile Law Center (2d ed. 16 1974).

14. Ohio Rev. Code Ann., Sec. 2151.31 (1971).

15. Okla. Stat. Ann., Title 10, Sec. 1109(a) (Supp. 1974).

16. Paulsen, Monrad G. and Whitebread, Charles H. *Juvenile Law and Procedure.* Reno: National Council of Juvenile Court Judges, 1974.

17. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: The Police.* Washington, D.C.: Government Printing Office, 1967.

18. *State* v. *Monahan,* 15 N.J. 34, 38, 104A.2d 21, 23 (1954).

19. *Terry* v. *Ohio,* 392 U.S. 1 (1968).

Related Standards

The following standards may be applicable in implementing Standard 5.6:

5.3 Guidelines for Police Intercession to Protect Endangered Children
5.8 Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination
5.9 Guidelines for Temporary Police Detention Practices
12.3 Court Proceedings Before Adjudication in Delinquency Cases.
12.8 Families With Service Needs—Preadjudicatory Shelter Care

Standard 5.7

Guidelines for Counseling and Releasing

When taking a juvenile into custody for an alleged delinquent act, the police should emphasize delinquency prevention and seek alternatives to court referral.

When the delinquent act is not serious, a record check shows no prior delinquency, and an informal adjustment is agreeable to the complainant and the youth's parents or guardians, the police juvenile officer should consider a community or station adjustment. This procedure involves settling the matter at the police level, without referral to juvenile court.

Community adjustment should be limited to release and referral. It should not include the imposition of sanctions by the police, nor should the police be permitted to place juveniles on police probation.

If at any stage in community adjustment proceedings, juveniles begin to volunteer information that could lead to a more serious charge on another criminal offense or delinquent act, they and their parents should be advised immediately of the youth's constitutional rights, which should not be abridged or denied in any way by the police.

Commentary

About 50 percent of all juveniles' custody cases are now resolved informally at the police level. Because police departments have traditionaly had a considerable amount of discretionary authority, each department has developed its own method of handling juveniles informally. These methods are known as station adjustments, community adjustments, counsel and release, or action suspended. In all cases the methods involve settling an alleged delinquency matter at the police level, without referral to the court handling juvenile matters.

The widespread use of police discretionary powers in juvenile cases can be attributed in part to the overburdened court system and the shortage of court personnel. This shortage has led many judges to increase police power indirectly by condoning or encouraging informal settlement of certain complaints. In addition, the police themselves accept the philosophy that juveniles have a great potential for rehabilitation if given proper guidance in time. There is a widespread belief that early discovery of the potential delinquent is the primary element of the prevention program.

A decision to adjust a juvenile case at the police level should be made promptly and if at all possible, by a juvenile officer. In cases where additional information on youth is neded to make a satisfactory decision, police should seek that data through home visits as well as from official records. The President's Commission on Law Enforcement and Administration of Justice recommended that the police be aided in these investigations by paid case aides, drawn from the neighborhood and selected for their knowledge of the community and their ability to communicate easily with juveniles and their families.

If such community service aides are used, they should be carefully screened, trained, and supervised by the police juvenile unit and should not be permitted to participate in investigations involving a conflict of interest (e.g., relatives or close friends and neighbors).

In deciding to release a juvenile to the custody of parents or guardians, this standard indicates that the primary criterion for release should be that the juvenile is not a threat to public safety. The following additional guidelines are recommended:

1. **Nature of the Alleged Delinquent Act.** In cases of minor delinquent acts, such as disorderly conduct, where there are no other serious negative factors, police should consider releasing the youth.

2. **Juvenile's Previous Behavioral History.** The officer handling the adjustment should obtain the juvenile's previous record from the police files, if such a record exists. The presence or absence of a prior history of serious law violations should be given substantial weight in making a release decision.

3. **Circumstances Possibly Contributing to the Alleged Delinquent Act.** Investigation may turn up important information about the youth's neighborhood or associates, which may be influencing negative behavior.

4. **The Juvenile's Willingness to Reform.** The juvenile should demonstrate a cooperative attitude; assurance of future good conduct is an important factor.

5. **Parental Supervision.** Other important factors are the interest and attitude of the parents or guardians toward the juvenile and the alleged law violation, as well as their ability to provide necessary supervision and guidance. To determine these factors, it is often advantageous for the officer to interview the juvenile's parents or guardians at home.

In the event of a community adjustment, the officer should prepare and file a report for future reference, in the event that the youth involved is taken into custody for another alleged delinquent act.

The standard strongly emphasizes the importance of limiting community adjustments to release and referral. Under no circumstances should the police coerce juveniles and their parents or guardians into agreeing to participate in an unofficial police probation program, where juveniles are usually required to report periodically to police headquarters, or where the police may establish groundrules governing the juvenile's behavior. For example, they may require participation in certain treatment programs, a curfew, or prescribed dress and grooming standards.

The IACP has rejected the concept of police-sponsored informal probation programs for the following reasons:

1. Voluntary police probation has no legal basis;
2. While police juvenile officers are expected to possess training and skills in the proper handling of juvenile law violators, they are not psychologists or social workers and should not be expected or allowed to serve as such;
3. A police department, because of limited personnel and resources, must use its juvenile officers to the best advantage; therefore, the department should limit its police juvenile workers to delinquency prevention, apprehension and referral;
4. It is not the function of the police department to provide treatment resources if the community lacks them. The police, however, should cooperate with other community agencies in bringing the need for such resources to the attention of the municipal governing body;
5. Police departments are not appropriate settings for treatment. Many youths with behavioral problems become more aggressive when faced with police or similar authority; and
6. Voluntary police probation programs duplicate the work of other agencies, such as probation and social welfare [R. Kobetz & B. Bosarge, *Juvenile Justice Administration* 166 (1973).]

Finally, this standard addresses a situation that sometimes occurs during interviews accompanying the community adjustment process. Juveniles may confess or volunteer information about a more serious crime or delinquent act in which they are involved; this action could lead to a more serious charge against them. The standard emphasizes that if juveniles begin to volunteer such information, the police must immediately advise both the youths and their parents of a citizen's constitutional rights to remain silent and to have counsel.

References

1. Barrett, D. R., Brown, W. J. T. and Cramer, J. M. "Juvenile Delinquents: The Police, State Courts and Individualized Justice," *Harvard L. Rev.*, Vol. 79 (February 1966).

2. Federal Bureau of Investigation. *Crime in the U.S., Uniform Crime Reports*, 1974. Washington, D.C.: Government Printing Office, 1975.

3. Frost, Thomas M. *The Juvenile Officer's Role: A Law Enforcement and Corrections Dilemma—Where Does It Fit?* Chicago, Ill.: Chicago Police Department, 1970.

4. Illinois Institute for Continuing Legal Education. *Illinois Juvenile Law and Practice*. Springfield, Ill.: Illinois Bar Center, 1974.

5. Kenney, J. P. and Pursuit, D. G. *Police Work With Juveniles and the Administration of Juvenile Justice*. Springfield, Ill.: Charles C. Thomas, 1975.

6. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

7. O'Connor, George W. and Watson, Nelson A. *Juvenile Delinquency and Youth Crime: The Police Role*. Washington, D.C.: International Association of Chiefs of Police, 1964.

8. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

9. Winters, John E. *The Youth Aid Division*. Washington, D.C.: Metropolitan Police Department, 1964.

Related Standards

The folowing standards may be applicable in implementing Standard 5.7:

5.3 Guidelines for Police Intercession to Protect Endangered Children

5.6 Guidelines for Taking a Juvenile Into Custody

5.8 Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination

Standard 5.8

Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination

When police are conducting a custodial investigation of an individual who is legally a juvenile, they should take care not to allow that juvenile to waive the right against self-incrimination without the advice of counsel. During interviews or interrogations, as in all police procedures, police officers must be sensitive to and respect the basic constitutional rights and personal dignity of both juveniles and adults. Police officers must scrupulously avoid practices that could be described as inherently coercive in the sense that a person may cooperate or confess to unlawful conduct as a result of induced fear.[1]

Commentary

The 5th amendment to the U.S. Constitution prohibits the Government from compelling persons to bear witness against themselves. This right against self-incrimination forbids the use in adult proceedings of coerced confessions or admissions to the police. It is important to note that coercion originally meant physical force or threats, but under the Supreme Court's ruling in *Miranda* v. *Arizona*, the definition now applies to psychological and mental coercion as well.

As a result of the *Gault* decision, State courts and legislatures now apply the *Miranda* safeguards to juvenile proceedings. For example, Oklahoma recently enacted a Statute providing that information gained through questioning a juvenile is inadmissible unless the questioning is conducted in the presence of the juvenile's attorney or legal custodian, and then only after all parties have been fully advised of their constitutional and legal rights. Statutes in California, Colorado, and Connecticut also require that juveniles be given full *Miranda* warnings when taken into custody by police before any questioning can occur.

Consistent with these developments, this standard requires that police comply with *Miranda* standards in the custodial interrogation of juveniles. In accordance with this procedure, children in custody should be advised that:

1. They need not answer questions or make a statement;

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[1] A majority of the National Advisory Committee on Criminal Justice Standards and Goals is opposed to that portion of Standard 5.8 that reads: "[police] . . . should take care not to allow that juvenile to waive the right against self-incrimination without the advice of counsel." Under existing law, juveniles have the same due process rights as adults. However, the above-quoted language would go further and would invalidate any statement made by a juvenile without prior consultation with an attorney. Those members objecting to the above portion of this standard believe that the philosophy behind that statement is contrary to the notion that juveniles should be encouraged to speak the truth openly and without the constraints or the adverse implications attendant to the adult system.

2. Anything they say can be used against them;
3. They have the right to have an attorney present during any discussion with the police;
4. If they cannot afford an attorney, the latter will be provided; and
5. They may stop answering questions at any time.

Juveniles and their parents or guardians should also be advised of the delinquent or criminal acts for which the youth may be charged, the seriousness of the potential charges, and the possible penalties involved.

This standard focuses on a question that has aroused considerable controversy in the courts: What is required for a valid waiver of the juvenile's right against self-incrimination? Can the juvenile waive the right alone? Or must an attorney be consulted first? Will the advice of a parent or guardian suffice?

Many courts have concluded that there is no absolute requirement that an attorney and/or parent or guardian be present in order for a youth to make an effective waiver. According to this view youths are not presumed, for reasons of age alone, to be incapable of waiving their rights. Rather, the effectiveness of the waiver is determined by the traditional test of the totality of the circumstances surrounding the statements.

Many other courts have rejected this view. For example, a number of recent cases have strongly stressed the importance of a parent's presence in determining the effectiveness of a juvenile's waiver of the right against self-incrimination.

In general, then, the case law provides no uniform guidance in this difficult and important area of police operations. This report concludes that a juvenile should not be allowed to waive the right against self-incrimination without the advice of counsel. This approach is consistent with the position that no constitutional right of a juvenile may be waived without prior consultation with an attorney (see Standard 12.3).

Although some courts and commentators have argued that the advice of a parent or guardian should suffice to insure a valid waiver, this report states that neither the juvenile nor the parents or guardians will adequately comprehend the legal implications of the waiver decision without the advice of an attorney. While parents or guardians may well be able to provide helpful guidance and advice, a lawyer should be consulted to assure that the relevant legal issues are fully outlined and understood.

It should also be noted that other standards in this report specify that if a juvenile who has not accepted a lawyer indicates the intention to waive the assistance of counsel, a lawyer should still be provided to consult at least once with the juvenile and the parents. Waiver of the right to counsel should only be made in a competent, voluntary manner with a full understanding of the consequences (see Standard 16.1).

References

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2. Colo. Rev. Stat. Ann., Sec. 22–2–2(3)(c) (Supp. 1971).
3. *Commonwealth* v. *Cain*, 279 N.E.2d 706 (Mass. 1972).
4. Conn. Gen. Stat. Ann., Sec. 17–66d(a) (Supp. 1973).
5. Davis, Samuel M. *Rights of Juveniles*. New York: Clark Boardman Co., 1974.
6. *In re Aaron D.*, 30 App. Div.2d 183, 290 N.Y.S.2d 935 (1968).
7. *In re Gault*, 387 U.S. 1 (1967).
8. *In re Knox*, 53 Misc.2d 889, 280 N.Y.S.2d 65 (Fam. Ct., Monroe Co. 1967).
9. *In re Nelson*, 58 Misc.2d 748, 296 N.Y.S.2d 472 (Fam. Ct., Bronx Co. 1969).
10. *In re Ronny*, 40 Misc.2d 194, N.Y.S.2d 488 (Fam. Ct., Queens Co. 1967).
11. *In re Rust*, 53 Misc.2d 51, 278 N.Y.S.2d 333 (Fam. Ct., Kings Co. 1967).
12. *In re William L.*, 29 App.Div.2d 182, 287 N.Y.S.2d 218 (1968).
13. *McClintock* v. *State*, 253 Ind. 333, 253 N.E.2d 333 (1969).
14. *Miranda* v. *Arizona*, 384 U.S. 436 (1966).
15. Okla. Stat. Ann., Title 10, Sec. 1109(a) (Supp. 1974).
16. *West* v. *U.S.*, 399F.2d 467, 5th Circ. (1968).

Related Standards

The following standards may be applicable in implementing Standard 5.8:

5.6 Guidelines for Taking a Juvenile Into Custody
12.3 Court Proceedings Before Adjudication in Delinquency Cases
16.1 Juvenile's Right to Counsel

Standard 5.9

Guidelines for Temporary Police Detention Practices

The temporary detention of juveniles by the police should be protective in nature, not punitive. A juvenile should be held in police detention facilities no longer than is necessary for referral to juvenile intake or return to the parents. Juveniles being held in temporary detention should be under observation at all times. Under no circumstances should these juveniles be held in the same detention facilities with adults.

Commentary

This standard relates to the interim holding of a juvenile in physically restricting facilities, pending referral to juvenile intake-return to parents. In general, the standard emphasizes the extremely short term nature of such detention and stresses the importance of prompt referral or return to the home.

Thus, temporary police detention should rarely be utilized in juvenile cases and then only for very short periods of time. When temporary detention occurs, its primary purpose should be protective rather than punitive. Moreover, juveniles placed in such detention should not be left unattended. The standard also emphasizes that under no circumstances should the police place a juvenile in the same detention facility as an adult, no matter how short the period of time. Placement in cells with adults may frighten the child and produce long-lasting psychological damage, or have other harmful effects.

The standard's intent is that detention in a police facility should be used only for those juveniles who have allegedly committed serious delinquent acts and pose a threat to themselves or others. Youth so detained should be treated with fundamental fairness, and the police should take every precaution to see that their constitutional rights are not abridged or denied. Immediately upon taking a child into temporary detention, the police should notify parents or guardians.

It is true that juveniles alleged to have committed serious law violations may need to be restrained for the protection of the community or of themselves. However, detention is clearly inappropriate in many cases involving lesser delinquent acts. In such cases, unnecessary placement in a police detention facility may be upsetting and confusing to youth and parents alike. Their reaction is frequently one of confusion and bewilderment. Therefore, it is important to delineate a number of situations in which temporary police detention should *not* be used.

First, alleged delinquents who do not present a security risk and who will be returning to their homes should not be placed in police detention facilities. If temporary detention is necessary, the child should be delivered immediately to intake for placement in a shelter care situation. Such temporary placement may be necessary for those who do not present a security risk but whose parents or guardians cannot be located.

Second, children taken into custody who are part of Families With Service Needs categories should not be placed in police detention facilities. They should be delivered immediately to intake for placement in shelter care, pending a decision to return them to their parents or guardians or to place them in a foster home or treatment facility. Possible exceptions to the second rule are runaways taken into custody. Such children may have to be placed in a secure facility to assure that they do not run away again, pending referral to juvenile intake. In all other cases, however, holding nondelinquent youths with alleged delinquents in police detention facilities should be scrupulously avoided.

Finally, police detention facilities should not be used for Endangered Children. When temporary custody is warranted, these individuals should be delivered immediately to the appropriate State agency.

This listing of situations in which police detention should not be used does not imply approval of such detention in other cases. Nor does it mean that the police should act other than immediately in delivering to the intake unit dangerous delinquents alleged to have committed serious law violations. Rather, the specific enumeration of these three types of cases is intended simply to underscore that police detention should never be used in these three situations.

As previously noted, this report maintains that temporary police detention should be employed only rarely and then on a *very* short-term basis. Primary responsibility for the initial decision to detain a juvenile prior to the adjudicatory hearing should rest with intake personnel, not the police. Also, this decision should be promptly reviewed by the family court (see Standard 22.4).

References

1. Davis, Samuel. *Rights of Juveniles.* New York: Clark Boardman Company, 1974.
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3. Studt, E. "The Client's Image of the Juvenile Court," *Justice for the Child.* New York: Free Press (Margret Rosenheim editor 1962).

Related Standards

The following standards may be applicable in implementing Standard 5.9:

12.8 Families With Service Needs—Preadjudicatory Shelter Care
12.9 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home
12.10 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From an Environment Other Than the Home
21.1 State Agency Responsibility for Intake Services
22.4 Preadjudicatory Detention Review

Standard 5.10

Guidelines for Diversion or Referral to Community Resources

Where permitted by law, every police agency should immediately divert from the juvenile justice system any juvenile for whom formal proceedings would be inappropriate or other resources more effective. All such police diversion decisions should be made pursuant to written agency policy that insures fairness and uniformity of treatment.

Police chief executives should develop written policies and procedures that allow juveniles to be diverted from formal proceedings in appropriate cases. Such policies and procedures should be prepared in cooperation with other elements of the juvenile justice system.

Commentary

This standard directs each police agency to establish written discretionary procedures for diverting a juvenile from intake and possible formal proceedings, prior to court hearing on an alleged law violation. Under this approach juveniles are referred to social service programs without being adjudicated as delinquent.

Diversion programs are an important component of juvenile rehabilitation efforts. They enable the juvenile system to handle youths without stigmatizing them with the formal label adjudicated delinquent when less coercive measures can provide adequate treatment and rehabilitation. Diversion also helps to relieve some of the pressures on overcrowded court dockets.

The police role in diversion programs varies greatly from State to State and even among different cities within a single State. In some instances, the police are vested with considerable discretion in determining which juveniles to divert from formal proceedings. In other localities, this function is given to other components of the system, such as juvenile intake. Regardless of the approach employed, this standard is intended to encourage the use of diversion programs and to insure that each police agency develops written guidelines specifying its role and policies in the diversion process.

These guidelines should be formulated by the police chief executive in cooperation with the court, juvenile intake, correction agencies, community supervision or probation agencies, and public and private social welfare organizations. Interested citizens, including youth, should also be invited to participate in the policy formulation process. The guidelines should specify that decisions to divert a child be made by police juvenile officers and that the juvenile officer be responsible for followup on referrals.

The guidelines should also specify that juvenile participation be voluntary and that police should adhere to the full range of due process safeguards. In the event that a youth refuses to participate in the diversion program at the outset, the police should refer the case to juvenile intake for formal adjudication.

Once juveniles have actually been diverted, there should be no further legal action permitted on the original charges, if the juveniles fail to abide by the performance standards of the agencies where they have been diverted. Charging juveniles for the initial violations would appear to infringe on the right to a fair and impartial adjudicatory proceeding because the youths' records would most likely contain the prejudicial information that they failed in a diversion program.

Obviously, the most important issue to be addressed in guidelines for diversion is the set of criteria to be used in deciding whether or not to divert. Such criteria should be flexible, because each case must be judged on its own merits. These standards offer no specific criteria for diversion at the police level, but police should focus on the following general considerations:

1. **Nature of the Alleged Delinquent Act.** Diversion should be considered for a juvenile's first alleged delinquent act and all such acts that would be misdemeanors for adults. However, the formal characterization of a law violation as a first offense or a misdemeanor should not be controling. Thus, for example, a guideline stating that all juvenile first offenders accused of robbery should be diverted would clearly be inappropriate. While one robbery case may involve one child taking another child's school lunch money, another may be more serious, such as a service station holdup.

The following factors should be considered in any decision to divert:

a. The seriousness of the delinquent act. The delinquent act must not be considered to be a major one, (e.g., murder, armed robbery, forcible rape, or aggravated assault);

b. The degree of bodily harm inflicted on one's self or others. There should be no evidence of dangerous offenses against the person.

c. The degree of criminal sophistication in committing the delinquent act. For example, the use of burglary tools, the premeditated use of a weapon, or strong-arm tactics generally indicates a need for formal court proceedings.

2. **Complainant/Victim's Rights.** The desire of the complainant/victim to prosecute must be respected. When deciding whether to divert a juvenile, care must be taken to insure that the complainant/victim is not deprived of the right to seek prosecution.

3. **Suspect's Age.** This factor should play an important part in the decision to divert, but should not be the sole criterion. Intellectual and emotional maturity do not necessarily progress with chronological age. Some juveniles of 17 might be very immature, while others at 14 or 15 may show greater maturity.

4. **Suspect's Employment and/or Family Responsibilities.** If an alleged juvenile misdemeanor or first offender is employed and continued employment would be jeopardized by a delinquent adjudication, serious consideration should be given to diversion. This factor takes on added importance when the juvenile is married and has a family to support.

5. **Nature of the Problem That Led to the Alleged Delinquent Act.** Some types of investigation should be completed on first offenders and juveniles alleged to have committed acts that would be misdemeanors for adults. In many cases the alleged law violation is motivated by emotional, psychological, physical, or educational problems. A knowledge that the juvenile needs professional assistance with social/personal problems should be an extremely important factor in the decision to divert him or her to a rehabilitative program.

6. **Suspect's Attitude Toward Self-Improvement.** Attitude refers to the manner in which one reacts to being taken into custody and charged with a delinquent act. Attitude may indicate a need for formal proceedings no matter how trivial the alleged delinquent act. However, recent studies offer an important caveat in assessing a juvenile's attitude: A minority or lower-class youth may adopt a more hostile demeanor in contacts with police than a more verbally skilled juvenile from a middle- or upper-class environment. However, studies conclude that a minority youth's more hostile attitude often bears no relation to a propensity for delinquent behavior. Thus, police should exercise caution when making judgments on attitudes.

7. **Suspect's Character.** For purposes of diversion, a youth's character can be evaluated by assessing such factors as: previous warnings on the juvenile's conduct from police or other authority figures; evidence of drug addiction or alcoholism; indications of a serious psychological disorder; and evidence of dangerous behavior toward oneself or others.

The possibility of recidivism must also be considered. This is an extremely important and difficult question, because any decision to divert involves a certain amount of risk. Experienced, carefully trained personnel must use their best judgment on this issue.

8. **Availability of Community-Based Rehabilitation Programs.** In any decision to divert a juvenile,

there must be adequate, formally structured, community rehabilitation programs available for referral. The juvenile cannot simply be released with no offer of assistance other than a periodic visit with a youth worker. This defeats the original purpose of diversion.

The types of community-based rehabilitation programs that should be available are: medical and psychological/psychiatric diagnosis and treatment; educational counseling; vocational training, counseling, and job placement; group homes; and social and family counseling. Police should have access to a resource file containing necessary data on all relevant community agencies, and they should develop cooperative working arrangements with each agency's staff for referral and feedback on clients. Adequate feedback establishes a basis for confidence in the diversion program and encourages further utilization by referring agencies. Lack of adequate feedback on diverted clients is one of the most serious problems in the juvenile justice system.

9. **Parental Responsibility.** Not only must a prospective client for diversion recognize the seriousness of the alleged delinquency and express a desire for rehabilitation, but so, too, must the parents or guardians. A decision to divert the juvenile into a community-based rehabilitation program must consider the degree to which the parents understand the seriousness of their child's involvement with the police, as well as their ability to control and discipline the child.

Finally, it should be recognized that diversionary guidelines should provide for special treatment of juveniles who are apparently mentally ill and come to the attention of the police. These youths should be immediately directed to appropriate medical treatment facilities. Procedures for handling such cases should be prepared with the cooperation of mental health authorities and the juvenile court.

References

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3. Kay, Barbara A. and Vedder, Clyde B. *Probation and Parole*. Springfield, Ill.. Charles C. Thomas, 1963.

4. Kenney, John P. and Pursuit, Dan G. *Police Work With Juveniles and the Administration of Juvenile Justice*. Springfield, Ill.: Charles C. Thomas, 1975.

5. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

6. Manpower Information Service, "Project Crossroads," *Congressional Record* (Dec. 22, 1970).

7. National Advisory Commission on Criminal Justice Standards and Goals. *Police*. Washington, D.C.: Government Printing Office, 1973.

8. Piliavin, Irving and Briar, Scott. "Police Encounters With Juveniles," *The American Journal of Sociology*, Vol. 70 (September 1964).

9. U.S. Department of Labor Manpower Administration. *Manpower Programs for Offenders*. Washington, D.C.: Government Printing Office, 1972.

Related Standards

The following standards may be applicable in implementing Standard 5.10:

5.11 Guidelines for Referral to Juvenile Intake
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
6.3 Relationships With Youth Service Bureaus

Standard 5.11

Guidelines for Referral to Juvenile Intake

Police referral of alleged delinquents to juvenile intake should be restricted to those cases involving serious delinquent or criminal conduct or repeated law violations of a more than trivial nature.

Commentary

Police officers apprehend many juveniles whose cases should be handled directly by the court. These include: (1) more serious, repeat delinquents for whom the persistent use of other redirecting efforts has failed, and (2) certain probation and parole violators.

In every jurisdiction, there are some serious juvenile delinquents who appear committed to criminal careers and have adopted criminal lifestyles. Diversion programs usually will not rehabilitate such delinquents. Hardcore delinquents seem to resist all efforts to assist them, and many will continue their attack upon society if given the opportunity. Such juvenile delinquents belong in secure institutions, as the right of the public to be safe and secure is a paramount concern.

Therefore, the police should immediately refer to juvenile intake cases involving the following types of delinquent acts:

1. All delinquent acts which if committed by an adult would be felonies, except those first offenses in which the circumstances may mitigate the offense (see Standard 5.10);
2. All delinquent acts involving weapons, including unlawful possession and unlawful use or threatened use against another;
3. All serious gang-related delinquent acts in which the alleged delinquent is engaged in gang violence, recruiting, intimidation, etc.;
4. All delinquent acts involving aggravated assaults and batteries, especially those against law enforcement personnel;
5. All delinquent acts committed by juveniles on community supervision (probation or parole), or those with a case pending, if the delinquent act for which they are taken into cusutody is within the scope of Items 1 to 4 above; and
6. All delinquent acts committed by juveniles whose three most recent police actions (within the preceding 12-month period) were disposed of as community adjustments.

In addition, there are certain other cases in which a referral to juvenile intake may be necessary. These include cases where:

1. The juvenile has been selected for a diversion program but refuses to participate; or,
2. The police determine that the juvenile has no effective parental supervision or that the juvenile's parents themselves are engaging in criminal conduct.

The police chief executive should develop guidelines for referral to intake in cooperation with intake personnel and the family court judge. This cooperation will insure that the rules and procedures are well formulated and understood by police and intake personnel. In addition, arrangements should be made whereby the family court automatically reports dispositional information to the police. This procedure is necessary for better cooperation between police and the community supervision (probation or parole) agency. If the police have knowledge of the restrictions placed on the child or family by the court, they will able to cooperate more effectively with the agency handling community supervision.

References

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2. Pennsylvania Juvenile Court Judges Commission. *Juvenile Court Handbook Supplement*. Harrisburg, Pa.: Commonwealth of Pennsylvania Department of Justice, 1970.

Related Standards

The following standards may be applicable in implementing Standard 5.11:

21.1 State Agency Responsibility for Intake Services

21.2 Processing Applications for Petitions to the Family Court

Standard 5.12

Guidelines for Fingerprinting, Photographing, and Other Forms of Identification

Fingerprints and photographs of juveniles should be taken for investigative purposes only. Juveniles should not be subjected to these procedures unless they are taken into custody for a violation of the law, or the family court has determined there is probable cause to believe that the fingerprints or photographs must be taken to establish the court's jurisdiction.

Police policies for identifying juveniles should conform to the following guidelines:

1. The police should be authorized to fingerprint a juvenile taken into custody in connection with a crime or delinquent act in which fingerprints have been found or may be expected to be found on yet undiscovered evidence. Fingerprints should be taken only for the purpose of verifying or disproving the juvenile's personal contact with objects pertinent to the defense. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken should be destroyed immediately. If the comparison is positive and the juvenile is referred to the court, the fingerprint card and other copies should be delivered to the court for disposition. If the juvenile is not referred to the court, the fingerprints should be destroyed immediately.

2. All fingerprints and photographs of juveniles should be filed and coded for restricted use only. Fingerprint and photograph files of juveniles should be kept separate from those of adults and should be maintained on a local basis only. Copies of fingerprints and photographs should not be sent to a central State or Federal depository unless the juvenile authorizes such transmission for the purpose of obtaining a national security clearance.

3. Fingerprint and photograph files of juveniles may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases, upon a showing that such inspections are in the public interest.

4. Fingerprints and photographs of a juvenile should be removed from the file and destroyed if the following occurs:

a. No petition alleging delinquency is filed, or the proceedings are dismissed after a petition is filed or after the case is transferred to the family court from the criminal court;

b. The juvenile is adjudicated not to be a delinquent; or

c. The juvenile reaches 21 years of age and there is no record of a delinquent act after the age of 16.

Commentary

Because many offenses can be solved through the use of fingerprint and photographic records, it is important to provide guidelines on juvenile records of this type.

Police use fingerprint evidence both to help identify suspects and to exonerate innocent persons. Photographs are used to identify suspects where the witness does not know the suspect's name.

There are several abuses inherent in both the fingerprinting and photographing of juveniles.

> Photographic identification possesses many of the same inherent possibilities for abuse as does the use of the lineup. First, the witness is likely to be shown only photographs of prior offenders since these are most accessible to police. Second, the possibility of psychological reinforcement of a mistaken identification by the witness is especially strong, inasmuch as a lineup identification following a photographic identification may be based upon the similiarity to the person in the photo, rather than to the offender. Third, photographs may be old, or may distort certain features of the person pictured, or may fail to disclose other significant characteristics of the person. Finally, the manner of showing photographs to the witness may be unnecessarily and prejudicially suggestive. [National Juvenile Law Center, *Juvenile Law and Tactics* 153 (1974).]

With fingerprinting, the greatest problem lies in the law enforcement agency's retention of the juvenile's fingerprints after the individual has been exonerated, as well as the possible transfer of these prints to other agencies. Photographs can be similarly retained and inappropriately transferred.

Fingerprints and photographs should be taken for investigative purposes only, and the retention and use of these materials should be carefully controlled. The police should be authorized to fingerprint juveniles without prior court approval only if they are taken into custody in connection with crimes or delinquent acts in which fingerprints have been or may be expected to be found.

If a comparison with prints from objects pertinent to the defense is negative, the juvenile's prints should be immediately destroyed. If the comparison is positive but the case is not referred to court, the prints should likewise be destroyed. Where a case involving positive comparison is referred to the court for adjudication, all copies of the prints should be delivered to the court.

During investigations, the police should file and code these materials for restricted use, keeping them separate from those of adults. In many jurisdictions there is fairly unrestricted access to adult fingerprint and photograph files for comparison purposes in crimes. To prevent the availability of juvenile files, they should be stored in a separate area with access restricted and security maintained at all times.

Juvenile fingerprints and photographs should be stored at the agency of origination. These records should not be sent to State and Federal depositories unless the juvenile authorizes such transmission to obtain a national security clearance. (Such cases may occur when a juvenile enlists in the military service or is hired by a Federal agency.) Fingerprint and photograph files should, however, be made available to law enforcement officers conducting an investigation in which the juvenile is a suspect.

Destruction of fingerprint and photograph records should be required by statute if a delinquency petition is not filed or the proceedings are dismissed by the court. Destruction of these materials should also be required when adjudicated juveniles reach the age of 21 if there is no evidence that they committed a delinquent act after age 16. Such procedures protect the youth from the unwarranted shotgun use of fingerprints or photographs in future delinquency or criminal cases.

There are also problems inherent in using other forms of identification in cases where juveniles are suspects. These other forms include physical samples from the suspect (hair, blood, urine, nails, breath, or stomach contents) and handwriting samples.

There are limits to how far the State can intrude into the body of a suspect without permission. In most cases, the police should obtain a search warrant to take physical specimens. At least one court has ordered that the accused's attorney be allowed to be present at the time of sampling (*People* v. *Longo*, 347 N.Y.S.2d 321, County Ct. 1973).

The Supreme Court in *Gilbert* v. *California* ruled that police may be permitted to take handwriting exemplars from a suspect as identification and for comparison with evidence. The Court stated that this procedure violates neither the fifth amendment privilege against self-incrimination nor the sixth amendment right to counsel.

Two other decisions involving handwriting exemplars from juveniles not in custody have held that (1) *Miranda* warnings need not be given prior to taking such exemplars because they are not testimonial in nature [*State* v. *Ostrowski* 282 N.E.2d 359 (Ohio, 1972)]; and (2) a fourth amendment warning relating to consent to search need not be given [*U.S.* v. *Harris* 453 F.2d 1317, (8th Cir. 1972)].

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2. *Breithaupt* v. *Abram*, 352 U.S. 432 (1957).
3. *Davis* v. *Mississippi*, 394 U.S. 721 (1969).

4. *Gilbert* v. *California*, 388 U.S. 263 (1967).

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9. *Robinson* v. *State*, 308 A.2d 734, Md. Spec. App. (1973).

10. *Rochin* v. *California*, 342 U.S. 165 (1952).

11. *Schmerber* v. *California*, 387 U.S. 757 (1966).

12. *State* v. *Brierly*, 509 P.2d 203 (Ariz. 1973).

13. *State* v. *Ostrowski*, 282 N.E.2d 359 (Ohio 1972).

14. *U.S.* v. *Harris*, 453 F.2d 1317 (8th Cir. 1972).

15. *U.S.* v. *Smith*, 470 F2d. 377 (D.C. Cir. 1972).

Related Standards

The following standards may be applicable in implementing Standard 5.12:

5.6 Guidelines for Taking a Juvenile Into Custody
5.13 Guidelines for Regulation of the Release of Information and Photographs to the News Media

Standard 5.13

Guidelines for Regulation of the Release of Information and Photographs to the News Media

Each State should enact legislation to require confidential police handling of identifying information about juveniles. With the exception of dangerous fugitives, law enforcement agencies should not release the names or photographs of juvenile law violators to the news media.

Commentary

At present there is much controversy about whether identifying information on juvenile law violators should be released to news media. Many States and individual communities prohibit or discourage publishing or broadcasting the names or photographs of juveniles involved in delinquent acts. These policies are designed to protect the youths from stigma, and are based on the principle that the court dealing with juvenile matters serves as a rehabilitative and protective agency of the State.

On the other hand, a number of jurisdictions have no policy on this matter. Others have in the past prohibited the release of information on juveniles, but recently have questioned the propriety of those prohibitions. Thus, New Jersey and other areas have undertaken experimental programs involving the release of information traditionally withheld.

After carefully considering the merits on both sides of the issue, this report opts for confidentiality. Therefore, this standard specifies that all States should enact legislation to make identifying information about juvenile law violators inaccessible to the news media.

Such legislation should stipulate that the police may not release any photographs or identifying information on juvenile suspects, and may not permit juveniles to be interviewed or photographed by the news media. The police should be authorized to state only that a juvenile has been taken into custody for a delinquent act, the nature of which can be described. These procedures are designed to protect the youth's privacy and to assist in rehabilitation.

Inflexible regulations prohibiting publication of a juvenile suspect's identification, under any circumstances, are not in the public interest. For example, it is sometimes necessary to publish and broadcast the names and photographs of dangerous juvenile fugitives or mental patients who have escaped. These practices are essential to public cooperation in obtaining information that may lead to the apprehension of the fugitive, and also serve to alert citizens to protect themselves should they come into contact with the fugitive. Therefore, the standard indicates that exceptions should be made to the general policy of confidentiality for those cases involving dangerous juvenile fugitives.

If a family court waives its jurisdiction and transfers a case to the adult criminal court (see Standard 9.5), the proscription on release of information should not apply. The rationale for confidentiality is grounded on the protective and rehabilitative purposes of the juvenile system; if the court determines that the juvenile is not amenable to treatment within this system, confidentiality is inappropriate.

Related Standards

The following standards may be applicable in implementing Standard 5.13:

5.14 Guidelines for Basic Police Records

9.5 Waiver and Transfer

Standard 5.14

Guidelines for Basic Police Records

Police records on juveniles should be kept separate from the records of adults. They should not be open to inspection nor should their contents be disclosed except by court order. Criminal justice agencies should justify their inspection of the records on a need-to-know basis.

Commentary

One of the basic tools of effective police operations is a good records system. Police departments should maintain an adequate system for recording complaints, contacts, arrests, investigations, and dispositions. Good records provide the basis for decisionmaking in all investigations and are also important for administrative control, policymaking, and the planning of crime and delinquency prevention programs. In addition, the courts and other agencies use records in administering criminal and juvenile justice programs.

In the past, control over access to police juvenile records has frequently been a serious problem. Information that should have been kept confidential has been made available to the news media, business and industry personnel officers, private investigators, insurance agents, and curious private citizens. These abuses should be curtailed.

This standard specifies that police juvenile records systems should be designed to assure confidentiality. A court hearing a juvenile case should, of course, have access to these records. This court should also require that appropriate parties to the proceeding be able to inspect the files. With these obvious exceptions, however, access to police juvenile records should be strictly limited.

It is possible for the police to establish tight administrative controls so that juvenile records will not be available to unauthorized persons, even when those records are computerized and stored in central registries. The FBI and other Federal agencies have demonstrated that controlled access to records can be a reality. Although security systems are expensive, they are needed to protect the privacy of juveniles. Therefore, maximum efforts should be taken to provide such security.

While the police should keep all records in a central location, juvenile files should be kept separate from those pertaining to adults. The standard indicates that police should not release these records or information in them without a court order. The court should grant such orders to criminal justice agencies able to justify the inspection of records on a need-to-know basis. Each police agency also should formulate guidelines governing (1) access to juvenile records for research purposes, and (2) access by private agencies that work with the police. The court should then determine the validity of these requests for information in light of the relevant State law and departmental guidelines (see Standards 28.1 and 28.2).

When a court issues an inspection order, the police should provide the inspecting agency with such explanations and interpretations as are necessary when a juvenile's records are reviewed for official purposes. Police employees who violate departmental rules on the confidential nature of juvenile records should be subject to sanctions.

Protection of the privacy of juvenile records is a matter on which there must be community agreement. Because information on juveniles may be available from several agencies, the policy of one may be negated by the others. This calls for cooperative action on the part of the court, the police, other agencies in the juvenile system, and the news media.

Police agencies may wish to explore the possibility of an integrated communitywide or statewide central information index for the juvenile justice system. Such an index may prove helpful in determining whether a juvenile has had previous contact with the various component agencies of the juvenile system.

If this index is used, it should operate under detailed guidelines designed to assure confidentiality (see Standards 28.1 and 28.2). Access to information should be strictly limited to official, tax supported public juvenile justice agencies (e.g., police, community supervision, and correctional agencies). For example, it may well be appropriate for the index to contain only the names of juveniles and the agencies with which they have had contact. After determining from the index that a juvenile has had previous contact with the system, participating agencies might then be required to secure court approval for inspection of other agencies' records.

References

1. Kenney, J. P. and Pursuit, D. G. *Police Work With Juveniles and the Administration of Juvenile Justice*. Springfield, Ill.: Charles C. Thomas, 1975.

2. Kobetz, Richard W. *The Police Role and Juvenile Delinquency*. Gaithersburg, Md.: International Association of Chiefs of Police, 1971.

3. National Conference of Commissioners on Uniform State Laws. *Uniform Juvenile Court Act*. Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

4. Wilson, O. W. and McLaren, R. C. *Police Administration*. New York: McGraw-Hill, Inc., 1972.

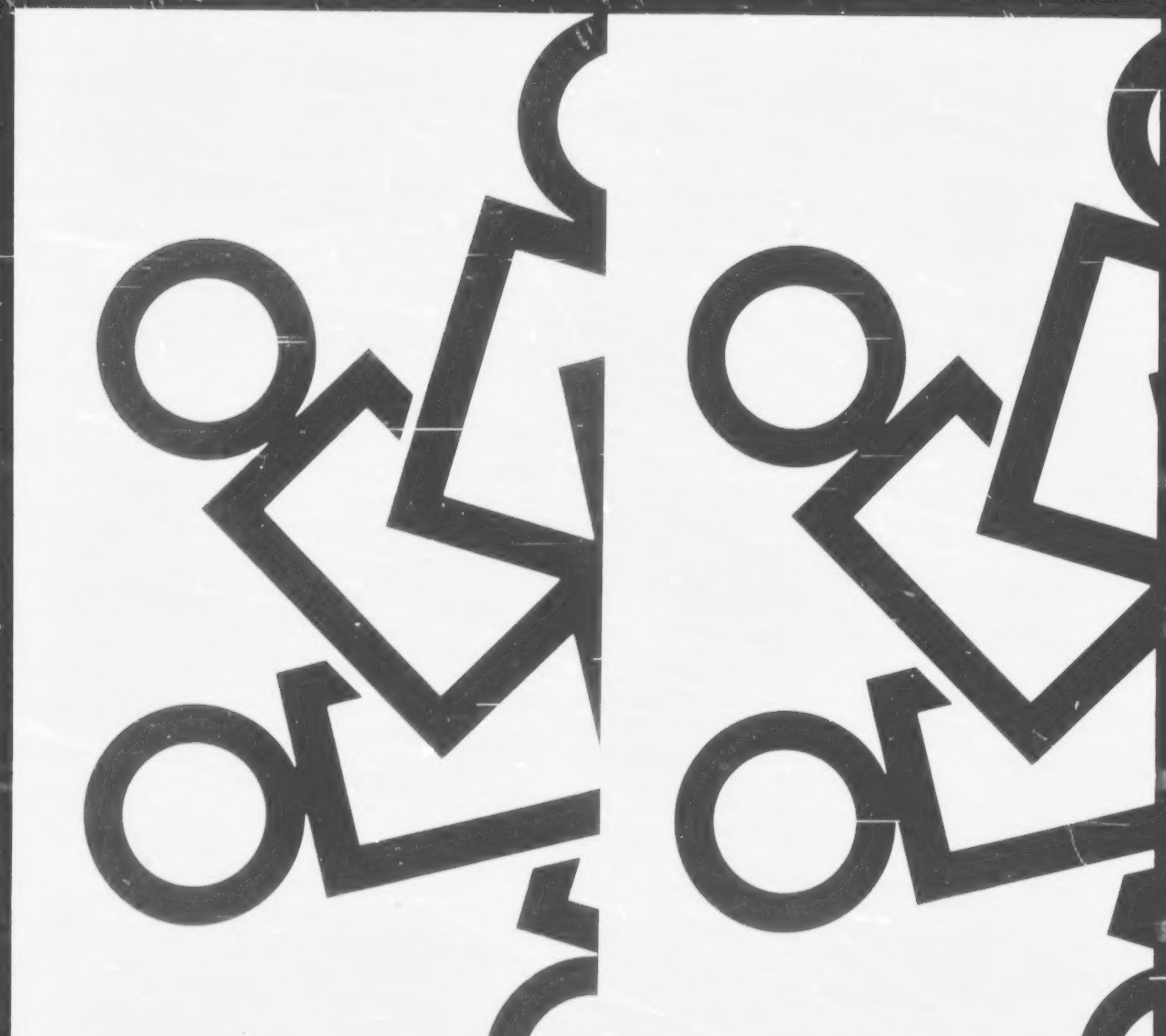
Related Standards

The following standards may be applicable in implementing Standard 5.14:

7.9 Controls and Disciplinary Procedures
28.1 Collection and Retention of Information on Juveniles
28.2 Access to Juvenile Records

Chapter 6

Police Role in Implementing a Comprehensive Delinquency Control and Prevention Program



INTRODUCTION

The roots and manifestations of delinquent behavior are too complex and diverse to be dealt with effectively by the police alone. Only a combination of community resources can supply the energetic efforts needed to combat this problem. Therefore, the standards in this chapter focus principally on the relationships of the police with other agencies and organizations.

One of the most serious constraints on the effectiveness of current programs for juveniles is the lack of a planning approach capable of synthesizing the fragmented and sometimes contradictory objectives of these programs. Recognizing this fact, the Juvenile Justice and Delinquency Prevention Act of 1974 emphasizes the importance of comprehensive planning efforts by State and local governments. Similarly, Standard 6.1 recommends the creation of interdisciplinary juvenile justice coordinating councils at the community level. Such councils should be helpful in establishing a systemwide perspective on local problems.

If the police are to work effectively in juvenile operations, they also must develop and maintain effective ongoing relationships with other youth agencies service both public and private, in the juvenile system (see Standard 6.2). Because the police are often responsible for either determining or recommending appropriate disposition of cases involving juveniles, close working relationships with these groups are essential to day-to-day police operations. Moreover, the police should assume a leadership role in identifying community needs, and should take the initiative to encourage new youth-serving programs in communities lacking such efforts.

The relationships of the police to certain organizations deserve particular emphasis. Thus, the next three standards focus on police relations with youth service bureaus (Standard 6.3), schools (Standard 6.4), and recreation programs (Standard 6.5).

The police should make full use of the diagnostic and coordinating services of youth service bureaus to refer juveniles out of the juvenile justice system. These bureaus can often provide integrated, comprehensive programs for juveniles with problems, and police should strongly support their efforts.

The police should also cooperate with school administrators and student leaders to formulate police-school liaison programs, which provide an excellent opportunity for juveniles and police to become acquainted. These liaison efforts provide visible evidence that police have a genuine interest in the community's youth, and liaison can become an important component in delinquency prevention programs.

Also important to prevention efforts is police participation in recreation programs. Through such participation, individual officers can provide meaningful guidance and can eliminate many juveniles' negative, stereotyped images of law enforcement officials. However, the police should only foster and support such activities, rather than operate them.

References

1. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide.* Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. Institute for Judicial Administration. *Juvenile Justice Standards Project Final Report Planning Phase 1971-72.* New York: New York University School of Law, 1973.

3. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration.* Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

4. National Advisory Commission on Criminal Justice Standards and Goals. *Police.* Washington, D.C.: Government Printing Office, 1973.

Standard 6.1

Participation in Community Planning Organizations

Police departments should encourage the development of interdisciplinary juvenile justice coordinating councils at the community level (city/county/regional). These councils should work to prevent crime and delinquency by doing the following:

1. Aiding systemwide planning for service delivery to juveniles, while avoiding duplication of those services;

2. Providing for the distribution of local, State, and Federal monies to insure a maximum return;

3. Communicating with State and Federal criminal justice and juvenile justice planners;

4. Eliminating interpersonal conflicts among those in the juvenile justice field;

5. Evaluating programs; and

6. Sharing information on innovative efforts with juvenile justice specialists throughout the Nation.

Commentary

In recent years, increasing emphasis has been placed on the need for comprehensive planning and effective coordination to reduce crime and delinquency. LEAA has provided the impetus for these coordinated planning efforts by requiring each State to submit a comprehensive plan in order to receive Federal funds.

The importance of a properly coordinated organizational structure for planning was underscored by the National Advisory Commission on Criminal Justice Standards and Goals, which stated:

> State and local governments should provide support for planning capabilities at the several major levels of decision-making: agency, local, and State.
>
> 1. States should, by statute, establish permanent State criminal justice planning agencies.
>
> 2. Cities and counties should establish criminal justice coordinating councils under the leadership of local chief executives. [National Advisory Commission on Criminal Justice Standards and Goals, *Criminal Justice System* 25 (1973).]

The Juvenile Justice and Delinquency Prevention Act of 1974 extends these planning concepts specifically to the juvenile system. The law provides new impetus for integrating or coordinating juvenile planning with the structure of a State criminal justice planning agency (SPA) and its staff. In the short time the act has been in effect, the most common practice has been for State governors to establish juvenile justice and delinquency prevention advisory boards or committees. The executive directors of these boards often also direct the SPA staff assigned to juvenile-related planning and grant administration.

This standard stipulates that the police take a leadership role in encouraging interdisciplinary coordinating councils at the community level; such councils would make up an important component of the overall planning process. The primary goal of these groups is to provide a vehicle for restructuring individual agencies from independence to dependence on one another for the effective delivery of services to youth. Such interdependency enables the juvenile justice system to work more effectively toward preventing delinquency by treating the child in trouble as a person rather than a collection of symptoms.

The standard also specifies the following important duties and functions for the councils:

1. **Aiding systemwide planning for service delivery to juveniles, while avoiding duplication of those services.** Many agencies do not realize they are providing similar services to the same clientele. At the outset, the council should analyze the duties of each agency in the public youth services system to ascertain where these duties overlap and to eliminate duplication. The council should then develop a system of accountability through written descriptions outlining the duties and responsibilities of each agency.

The next step for the council is developing interagency programs, such as police-school liaison or teacher-probation officer programs, where two agencies must cooperate for the effective delivery of particular services. The council also should plan interagency efforts that guarantee 24-hour services for juveniles. For example, the council should develop a master list of agency duties indicating which agencies handle particular cases, and where juveniles can be referred by the police on a 24-hour basis to prevent unnecessary detention.

2. **Providing for the distribution of local, State, and Federal monies to insure a maximum return.** One of the problems contributing to interagency jealousies and jurisdictional disputes is competition for funds. In youth service agencies, this competition often leads to an overemphasis on statistics rather than effective delivery of services. Competition also leads to duplication of services and wasted money, particularly evident in those social service agencies where no clear delineation of duties exists.

The coordinating council should decide where monies should be distributed to insure that important programs are adequately funded, and to make the process of funding these programs understandable and open to public view. In addition, the council should apply for State and Federal funds as a unified community group, a procedure that should eliminate the time-consuming activity of individual agency applications and negotiations.

3. **Communicating with State and Federal criminal justice and juvenile justice planners.** A community's juvenile justice system cannot exist in a vacuum. It also must be part of the State and Federal networks. For this reason, the council should maintain liaison with State and regional criminal justice planning agencies. These, in turn, should communicate with the Federal agencies responsible for delinquency prevention and deliverying services to children. The council also should develop community programs to meet statewide delinquency prevention goals.

4. **Eliminating interpersonal conflicts among those in the juvenile justice field.** The council should serve as a vehicle through which interagency problems, jealousies, and jurisdictional disputes can be discussed and resolved in a manner that protects the best interests of the client and the community. As in any situation where people and complex organizations are involved, self-interest can overshadow the real issues at hand—the rehabilitation of juvenile delinquents. Disputes about who has jurisdiction over a certain case or what should be done for a particular child can have disastrous effects upon the individual involved. Therefore, when the best course of action for treating children is not clear, a sample case might be taken to the council for mediation and resolution.

5. **Evaluating programs.** Close and critical evaluation is required to assess the progress of youths at each level of their journey through the juvenile justice system, from apprehension or initial referral to disposition to treatment, release, and aftercare. Therefore, the council should evaluate programs to determine their effectiveness in delivering the services they are specifically designed to provide. In doing so, the council should develop flexible measurement yardsticks that can be used for continuous program evaluation.

6. **Sharing information on innovative efforts with juvenile justice specialists throughout the Nation.** Once the council has developed a program that seems effective on the community level, the council should inform other juvenile justice specialists about the effort. This action can be accomplished by intradisciplinary conferences and program-sharing workshops on regional, statewide, and national levels. In addition, such information can be disseminated through personal communications, articles in professional magazines, and personal exchange programs.

Finally, the police should not limit their planning participation only to the juvenile justice system, but should involve themselves in other planning organizations concerned with broader community problems and issues. The latter include physical planning, comprehensive health care, education master plan committees, and neighborhood councils involving both lay and professional leaders in their planning functions.

References

1. Governor's Justice Commission. *State of Pennsylvania Juvenile Justice and Delinquency Prevention Plan Supplement to the 1976 Comprehensive Plan for the Improvement of Criminal Justice in Pennsylvania.* Harrisburg, Pa. (February 1976).

2. Kenney, J. P. and Pursuit, D. G. *Police Work With Juveniles and the Administration of Juvenile Justice.* Springfield, Ill.: Charles C. Thomas, 1975.

3. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration.* Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

4. National Advisory Commission on Criminal Justice Standards and Goals. *Criminal Justice System.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 6.1:

6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
7.2 Planning Commitment

Standard 6.2

Developing and Maintaining Relationships With Other Juvenile Justice Agencies

To prevent delinquent behavior and combat juvenile crime, police should cooperate actively with other agencies and organizations, public and private, in order to employ all available resources. Police should also provide initiative and leadership in forming needed youth service organizations in communities where needs exist.

Commentary

In order to exercise an effective role in the prevention and control of juvenile delinquency and youth crime, police must develop close working relationships and liaison programs with other agencies in the field. Written agreements and instructions for cooperating with State and Federal enforcement agencies and police in adjoining jurisdictions should cover all important matters relevant to juveniles.

The police also should work in collaboration with public and private community service agencies. As the entry point to the juvenile system the police are in a unique position to assess community needs. They are often the first to realize that necessary services are unavailable because appropriate programs do not exist or are inaccessible. Therefore, the police should take an active role in insuring that there are adequate youth services in each neighborhood and precinct.

Police chief executives should insure that all relevant agencies cooperate to formulate written guidelines for referrals and for cooperation between their respective staffs. The Missouri Council on Criminal Justice recommends the following procedures in developing guidelines:

> 1. Describe the parameters of the agencies included and the area served;
> 2. Secure the approval, assistance and assurance of implementation of the guidelines by the involved agencies;
> 3. Assign or assume the responsibility for the development of the guidelines;
> 4. Plan input from user personnel, i.e., "line" personnel in each agency;
> 5. Develop guidelines in accordance with statutory limitations and regulations;
> 6. Write guidelines in an organized format, using a clear and concise style;
> 7. Develop the necessary formats for implementing the guidelines;
> 8. Assure distribution of the guidelines to potential users; and,
> 9. Provide a plan for review and revision of the guide lines as needed. [N. Gomolak, *Missouri Police-Juvenile Officer Manual Guide* 129 (1975).]

One method of maintaining close relationships with other agencies is for the chief executive and the police juvenile commander to conduct periodic city, county, and regional conferences. These meetings would enable directors and/or administrative officials of all juvenile service agencies to air mutual problems and rechannel their thinking. For example, a local juvenile justice conference is conducted monthly in Monmouth County, New Jersey, to develop mutual policies for delinquency prevention, control, and rehabilitation. Organized by the County Juvenile and Domestic Relations Court, the conferences are attended by representatives of the school system, the League of Municipalities, the Chiefs of Police Association, Probation Department, and the Juvenile and Domestic Relations Court.

Another method of developing mutual cooperation among juvenile justice systems components is for juvenile justice specialists at the city and county levels to appear jointly before community groups to emphasize cooperation within the juvenile justice system and between that system and the community.

References

1. American Bar Association. *Standards Relating to the Urban Police Function.* New York: Institute for Judicial Administration, 1972.

2. Institute for Judicial Administration. *Juvenile Justice Standards Project Final Report Planning Phase 1971–72.* New York: New York University School of Law, 1973.

3. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration.* Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

Related Standards

The following standards may be applicable in implementing Standard 6.2:

6.1 Participation in Community Planning Organizations

6.3 Relationships With Youth Service Bureaus

Standard 6.3

Relationships With Youth Service Bureaus

Police departments should make full use of the diagnostic and coordinating services of youth service bureaus for the referral of juveniles and, where appropriate, should also take an active role in their organization and policy deliberations.

Commentary

A youth service bureau is a multiservice organization employing a team approach in helping juveniles. Its staff consists of professionals trained in many disciplines including education, vocational training, physical and mental health, drug treatment, and social welfare. The bureau's staff evaluates and diagnoses juveniles, then formulates comprehensive action plans to deal with each client's needs. Since this concept was first advocated by the President's Commission on Law Enforcement and Administration of Justice in 1967, a wide variety of youth service bureaus have been established, using organizational structures tailored to the needs of the particular community.

This standard specifies that police should make full use of the diagnostic and coordinating services of youth service bureaus, and should take an active role in their organization and policy deliberations where appropriate. The police, especially experienced juvenile officers and supervisors, can play extremely important roles in youth service bureaus, supporting their creation and effective use to help juveniles in danger of becoming delinquent. Moreover, juvenile officers can serve as agents for voluntary admissions to the bureaus.

Police executives and the administrators of the local youth service bureau should jointly develop written guidelines for police referrals and agreed-upon procedures for cooperation among their respective staffs (see Standard 6.2). Official police responsibility for youths should terminate upon referral to the bureau. However, individual officers interested in working with juveniles should be encouraged to volunteer their services to the bureau as counselors, big brothers, or recreation supervisors. In addition, police juvenile officers should assist with research to determine the juvenile population service needs.

Finally, by serving on the bureaus' directing or advisory boards, police juvenile executives can help develop policies and generally supervise the bureau. However, the appropriate role of the police in policy deliberations may vary, depending on the community's organizational structure.

References

1. Gomolak, Normand. *Missouri Police-Juvenile*

Officer Manual Guide. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* Washington, D.C.: Government Printing Office, 1967.

3. Youth Development and Delinquency Administration. *Youth Service Bureaus and Delinquency Prevention.* Washington, D.C.: Government Printing Office, 1973 (DHEW Publication No. SRS 73-26022).

Related Standards

The following standards may be applicable in implementing Standard 6.3:

4.4 Guidelines on Use of Police Discretion

6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies

Standard 6.4

Police-School Liaison

Police should make every effort to develop effective delinquency prevention programs in the schools through collaborative planning with school administrators and student leaders. All junior and senior high schools should seek to implement a school liaison officer program with their local police department, with the specification that the police officer involved be trained and qualified to serve in an educational and counseling role. Police chiefs, school administrators, and student leaders also should develop guidelines for police-school liaison.

Commentary

Police-school liaison programs have been implemented in many communities throughout the United States. Such programs provide an excellent opportunity for police officers to become acquainted with juveniles in an educational setting.

In most liaison programs, officers are assigned full-time to individual schools as resources on delinquency prevention. Usually an officer also works as a member of the school guidance team. Liaison programs enable students, parents, faculty, and police to become acquainted with one another. These programs also demonstrate to parents and faculty that the police department has a genuine interest in the community's youths and is making sincere efforts to help them.

This standard specifies that all junior and senior high schools should seek to implement effective liaison programs with the police. Liaison officers should be trained and qualified to serve in an educational and counseling role, and should be acceptable both to the school and the police department in terms of their ability to communicate well with juveniles, parents, and the school faculty. The officers should have some experience and training in juvenile or community relations work, and they should be carefully supervised by police command personnel.

In addition, police and the schools should draft written guidelines for the liaison program, ideally, through a cooperative effort of the State department of education and other school administrators, student leaders, municipal police, Parent-Teacher Association representatives, and social welfare representatives.

These guidelines should clearly specify police department procedures for the following:

1. Interviews with and apprehensions of juveniles during school hours and on school property;
2. Placement of police officers within the schools;

3. Protection of children from persons loitering in or near schools;

4. Police use of school records;

5. Police service in handling large school crowds; and

6. Other problems unique to a given area.

These guidelines should of course conform to existing statutes, ordinances, and local conditions.

The liaison officer should not be used as a security guard, except in the most extreme situations. If police must be called into a school to quell a disturbance, they should leave the school premises as quickly as possible after the emergency has ended. Neither should the police-school liaison officer be used as an enforcer. However, if a violation of the law occurs within immediate view, he should take appropriate action.

If it is necessary to take juveniles into custody, liaison officers should call for assistance from the juvenile division so as not to give students the impression that their role is one of surveillance and apprehension. The Missouri Council on Criminal Justice has developed an excellent set of guidelines for juvenile officers required to investigate law violations committed on school property or delinquent acts committed by juveniles attending school.

Police-school liaison officers also should not be used to enforce school disciplinary or attendance rules, which are the responsibility of the school principal and staff or attendance and probation officers.

The police-school liaison program should be evaluated annually to appraise its merits, determine whether goals and objectives have been reached, identify problems, and recommend improvements. Although an external evaluation is recommended, lack of funds may necessitate an internal one. If so, this evaluation should be conducted by a joint police-school team not directly involved with the program.

References

1. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

Related Standards

The following standards may be applicable in implementing Standard 6.4:

4.1 Police Policy as an Expression of Community Standards

4.6 Participation in Policy Formulation Efforts

Standard 6.5

Participation in Recreation Programs

Police departments should take an active leadership role in developing community recreational programs for juveniles, but the police should not operate those programs. A supplemental police role should encourage community support of recreational activities with officers volunteering to participate during their offduty hours as other citizens do.

Commentary

One of the most popular facets of police-juvenile community relations is police participation in recreational youth programs. These include such activities as Little League Baseball, Athletic Clubs, Boy or Girl Scouts, camping, the YMCA and YWCA. Police participation in these programs enables officers to work closely with both delinquent and nondelinquent youths, providing guidance and big brother or sister relationships. Such relationships may help juveniles develop satisfaction from socially conforming behavior and encourage them to make better use of their leisure time. These activities can also serve to alter the negative stereotypes that many delinquent and nondelinquent youths harbor about the police. Thus, it is important that police officers be encouraged to participate in youth service programs.

At present, many police departments throughout the Nation have established at least one formal recreational activity. Typical of these programs are Police Boys' Clubs and the Police Athletic Leagues found in most major Northeastern cities. This standard indicates that the police should foster and encourage recreation programs, but should not operate such programs themselves.

There are several disadvantages to direct police sponsorship of recreational programs. While these activities are generally initiated by officers volunteering their time and effort, they often evolve into elaborate programs requiring the part-time or permanent assignment of police personnel. Moreover, such efforts may be opposed by other community-supported programs instituted and operated by professional recreation personnel who may believe that police are not qualified in this field. Therefore, police should not be used officially as recreation directors; this is the function of other community organizations.

On the other hand, individual officers with an interest in recreational and service activities should be encouraged to participate in these programs. They should support such programs during their offduty time in the same manner as other responsible citizens. Police officers can also serve as recruiters of youth for existing programs, which may be their most important role in the recreation area.

In addition, if a recreational program is needed but does not exist, the police may step in to organize one. However, once the program is functioning smoothly, it is best for the police to step aside and turn over the management to professional recreation personnel. Interested police officers can then continue to participate in the program voluntarily as consultants or advisory board members.

Reference

1. Kobetz, Richard W. *The Police Role and Juvenile Delinquency*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

Chapter 7

Organization, Planning, and Management of Police Juvenile Justice and Delinquency Prevention Services

INTRODUCTION

Both the theory and practice of management of police operations have undergone radical changes in recent years. The contemporary police chief administrator is similar to the president of a large corporation, and teams of skilled police specialists now apply highly refined techniques to the analysis and solution of community problems. Proper planning, evaluation, organization, and budgeting have become the primary tools of the law enforcement executive.

The standards in this chapter focus on the importance of these innovative techniques to police juvenile operations. One particularly significant theme should be emphasized at the outset. The basic tasks of the police juvenile function remain those of personal interaction with juveniles themselves. Thus, the ultimate worth of any new technique should be measured in terms of its usefulness in enabling dedicated, highly skilled professionals to perform these tasks as well as possible.

Given the nature of their jobs, ordinary line officers are usually too generalist in outlook to develop the expertise appropriate to extensive dealings with juveniles. Therefore, Standard 7.1 calls for creation of a specialized juvenile unit in those departments where the workload warrants. The standard specifies that juvenile investigative units should be required for agencies having more than 75 sworn officers, and that smaller agencies should establish such units whenever local conditions justify such an action.

The next four standards focus on various aspects of planning, evaluation, and resource allocation. First, Standard 7.2 indicates that each police agency should establish a planning function and engage in continuous planning on problems involving juveniles. The individual or unit assigned to this function should develop short- and long-term recommended strategies for prevention and control of delinquency. These strategies should then be coordinated with the policy-making and budgetary processes.

Next, Standard 7.3 states that each agency should establish a mechanism for evaluating and assessing the effectiveness of juvenile operations. Such evaluations are extremely important in making necessary improvements in existing operations and planning for future programs.

Standard 7.4 calls for citizen participation in the assessment process. This standard implies that cost-effectiveness studies and other sophisticated evaluative techniques are useful tools. However, their principal value lies in helping to determine choices among alternative strategies to achieve agreed-upon goals. Therefore, citizen involvement is essential to determine the relevance of police objectives to the needs of juveniles and the larger community.

The standards also recognize the dearth of sound information on actual and projected expenditures related to police juvenile operations. To aid statewide planning for resource allocations, the standards call on State criminal justice and law enforcement planning agencies to determine current expenditures and engage in a cooperative effort with local agencies and citizens to recommend appropriate expenditure levels, according to the type of community and population served (see Standard 7.5).

The remaining standards in the chapter focus on police personnel. The personnel selection process should insure that highly qualified and motivated individuals are assigned to handle juvenile matters. Thus, the standards indicate that juvenile specialists should be selected from experienced line officers on the basis of examinations (see Standard 7.6). Provision should also be made for proper training of police in the handling of juvenile matters. To meet this need the standards set forth detailed guidelines for training both juvenile specialists and non-specialists (see Standard 7.7).

The standards also recommend the use of such innovative programs as temporary staff exchanges with juvenile units in different cities, and with other juvenile justice agencies within the same city. Also, agencies should encourage their personnel to participate in higher education programs (see Standard 7.8). Finally, the standards highlight the need for clearly defined written controls and disciplinary procedures in juvenile operations (see Standard 7.9).

References

1. American Bar Association. *Standards Relating to the Urban Police Function.* New York: Institute for Judicial Administration, 1972.

2. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration.* Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

3. National Institute on Law Enforcement and Criminal Justice. *Evaluation in Criminal Justice Programs: Guidelines and Examples.* Washington, D.C.: Government Printing Office, 1973.

4. Wilson, O. W. *Police Administration.* New York: McGraw-Hill, 1963.

Standard 7.1

Organization of Police Juvenile Operations

Every police agency having more than 75 sworn officers should establish a juvenile investigation unit, and every smaller police agency should establish such a unit if community conditions warrant.

This unit should be functionally centralized to the most effective command level; and should be assigned responsibility for conducting as many juvenile investigations as possible, assisting field officers in juvenile cases, and maintaining liaison with other agencies and organizations interested in juvenile matters.

Police administrators with existing juvenile units should improve the status of those units if necessary, to insure that all members of the department recognize that juvenile-related activity is a necessary and valuable component of the police organization.

Commentary

Many competent authorities in the police field have emphasized the importance of revising organizational structures and increasing specialization to help police work more effectively in the communities they serve. For example, the American Bar Association has stated:

> More flexible organizational arrangements should be substituted for the semimilitary, monolithic form of organization of the police agency. Police administrators should experiment with a variety of organizational schemes, including those calling for substantial decentralization of police operations, the development of varying degrees of expertise in police officers so that specialized skills can be brought to bear on selected problems, and the substantial use of various forms of civilian professional assistance at the staff level. [American Bar Association, *Standards Relating to the Urban Police Function* 21 (1972).]

In light of the special needs and problems of youth and the unique procedural aspects of the juvenile justice system, specialization is particularly important in juvenile matters.

The juvenile specialist can develop useful relationships that not only serve as sources of needed intelligence, but are also resources for promoting rehabilitation. Juvenile specialists can handle many youth-related problems better and more expeditiously than patrol officers and can resolve many of the department's problems with juvenile delinquents. Moreover, they can assist in training classes by informing other officers about the special legal procedures involved in handling children. In addition, a good juvenile specialist is able to enhance the community's general confidence in the police.

A police department wishing to determine whether it needs a specialized juvenile unit should take the following steps:

1. Gather data from internal police personnel

and the planning unit on the number and types of crimes in which juveniles are involved and investigative outcomes, case dispositions, amount of investigative personnel hours devoted to detection of crimes involving juveniles, and the amount of time spent by uniformed patrol officers absent from their regular areas while processing juvenile cases.

2. Identify the clients (i.e., juvenile delinquents and predelinquents), victims (both adult and juvenile), and parents who can be served effectively by juvenile specialists.

3. Identify juvenile justice and community agencies that can be helped by juvenile specialists. These include other police personnel, the court handling juvenile matters, the prosecutor, corrections agencies, schools, and social and family services.

4. Conduct a community profile on a regular basis to obtain current and projected data on industry and business, socioeconomic groups, the juvenile population, and other relevant information.

Police departments have adopted different structures for handling juvenile cases. The most common is the specialized youth bureau or juvenile division, where one or more full-time officers concentrate solely on juvenile matters.

Organizationally, in large departments (more than 100 sworn officers) a juvenile unit can be placed in the investigation bureau with the juvenile commander reporting to the director of that bureau. In medium-size departments (25–100 sworn officers), the juvenile unit can be placed in the field operations bureau, with the juvenile commander reporting to the field operations commander. In a small department (fewer than 25 sworn officers), the juvenile officer should report directly to the police chief executive.

It has been repeatedly pointed out that in almost every case where delinquency comes to the attention of juvenile justice personnel, family problems exist or there is no viable family unit. In many cases, the child receives no parental discipline. There also is a tendency for delinquent children to come from homes that lack emotional security—those often visited by the police on family disturbance calls. A disturbed family environment often prevents the rehabilitation of juveniles with problems.

Because the family is, or should be, an important element in prevention and control of delinquency, the police department must reach out and draw the families of its clients into the rehabilitation process. Therefore, a possible organizational approach is to establish a family service bureau that combines domestic crisis intervention and juvenile services. Such bureaus have already been tested and proven successful in a number of jurisdictions including Dade County, Florida, and Dayton, Ohio.

The Dade County Department of Public Safety's Safe Streets Unit (SSU) combines the functions of juvenile guidance, community service, and family crisis intervention. In the first area, SSU officers are concerned with personally contacting all juvenile law violators. However, the officers *do not* investigate nor take juveniles into custody. They deal with juveniles after investigators complete the cases, at which time the SSU officers refer the youths to agencies that can provide assistance.

The SSU program was evaluated after its first year of operation. The resulting data showed that assaults on police officers decreased in the central district, where the program was first implemented. Moreover, surveys demonstrated a significant increase (20 percent) in positive community attitudes toward the police in the first year of operation.

A similar program, the Conflict Management Unit, has been in operation in the Dayton, Ohio, Police Department since 1970. The unit's conflict intervention team intervenes in family disputes, labor/management disputes, landlord/tenant problems, group disturbances, and other crisis situations. In addition, the team is responsible for youth counseling and all juvenile-related activities.

Efforts are made to informally discuss delinquency problems with potential delinquents, parents, and school officials with the objective of improving the youngster's attitudes toward the police, the school, and authority in general. Such programs have demonstrated the value to both the police and the community of merging family crisis and juvenile units into a single operating unit. However, further research in this area is needed to determine the long-range effects and benefits.

Regardless of the organizational structure employed, the juvenile unit should not rely solely upon sworn officers. The unit can also gain valuable assistance from community service workers and nonsworn civilian social workers.

Community service officers are personnel with high school educations who have a special ability to work with particular segments of the population, such as minority groups, juveniles, and the elderly. They possess special communication and language skills and have been used to forestall riots, provide community services (such as helping families obtain social welfare aid), and perform other duties necessary to supplement law enforcement operations.

A trained social worker is also a distinct asset to a police juvenile unit. The worker can often assist families and juveniles with problems that would require an extensive amount of time from sworn officers. The social worker can also investigate family backgrounds and help officers prepare case reports for the court. Such a program has been implemented by the Peoria, Illinois, Police Department, which uses trained counselors to respond to crisis and emergency situations at the request of patrol officers.

No matter what type of organizational structure is selected, the juvenile specialists should be available on a 24-hour, 7-days-per-week basis. Moreover, the police administrator should assure that the juvenile unit enjoys high status and is recognized by all officers as an integral part of the police organization.

References

1. American Bar Association. *Standards Relating to the Urban Police Function*. New York: Institute of Judicial Administration, 1972.

2. Bard, Morton. "Alternatives to Traditional Law Enforcement," *Police*, Volume 15 (November–December 1970).

3. Broomfield, Tyree. "Conflict Management" in *Community Relations and the Administration of Justice*. New York: John Wiley and Sons (David Gray editor 1975).

4. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

5. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

6. Lougheed, Walter J. "Our Safe Streets Unit," *Police Chief*, Vol. 40 (July 1973).

Related Standards

The following standards may be applicable in implementing Standard 7.1:

5.2 Guidelines for Patrol Officers
5.4 Guidelines for Police Juvenile Investigations
5.7 Guidelines for Counseling and Releasing
5.10 Guidelines for Diversion or Referral to Community Resources

Standard 7.2

Planning Commitment

All police departments should establish a planning function and staff it with personnel who can help the department plan for the administration and management of police delinquency prevention and control services. Continuous planning should be carried on in order to cope effectively with tactical and strategic problems involving juveniles.

Commentary

The police planner or planning unit should continuously engage in both tactical short-range planning to achieve immediate objectives, and strategic or long-range planning concerned with future problems.

One of the primary functions of the planner or planning unit is to help the police chief executive develop and implement goals and objectives for police juvenile operations. These goals and objectives should be clearly defined and continually revised to meet the changing needs of both the department and the community's youth population.

It is important to recognize that it is the lowest echelon, or operational personnel, who actually help a police department reach its objectives. Therefore those individuals should be involved to some degree in determining the department's goals. Good planning cannot take place in a vacuum, and should be coordinated with the rest of the department's activities.

Planning also must be closely interrelated with evaluation. In devising short- and long-term strategies for the police juvenile unit, it is important for planners to know the effectiveness of current programs. The more relevant the information available to planners about current operations, the better they can devise recommended strategies and approaches for the future.

Close liaison with budgeting is also essential. Implementation or revision of any plan almost always has major fiscal implications. It makes little sense to initiate comprehensive planning efforts unless there is a serious commitment by the police chief executive to obtain local government funds for those efforts. Similarly, the planners' appreciation of fiscal realities will enable them to produce more viable strategies for consideration by top management.

Like any other aspect of modern management, planning has become a complex and exacting science. Properly staffed, effectively integrated with the rest of the department, and supported by top management, the planning function can improve the operation of the entire department. Planning can also be of significant value in establishing meaningful coordination with other parts of the juvenile justice system.

References

1. Allen, Louis. *Management and Organization*. New York: McGraw-Hill, Inc., 1958.

2. *Collaboration Between Law Enforcement Executives and Social Scientists: Report of Proceedings of a Conference for Law Enforcement Executives and Social Science Practitioners*. San Jose: National Conference of Christians and Jews, Inc. (Terry Eisenberg ed. 1975).

3. Kassoff, Norman. *The Police Management System*. Gaithersburg, Md.: International Association of Chiefs of Police, 1967.

Related Standards

The following standards may be applicable in implementing Standard 7.2:

7.3 Evaluations Commitment

7.5 Planning Resource Allocation of Police Juvenile Operations

Standard 7.3

Evaluations Commitment

Periodic evaluations and assessments of police juvenile operations should be performed to insure that those operations are accomplishing their goals, objectives, and stated missions.

Commentary

Thorough and objective evaluation is an integral component of any well-managed, effective organization. With the expanding size and complexity of modern police operations, it is now impossible for top administrators to assess operational efficiency on the basis of random observation and unsystematic, informal feedback from the station house. Juvenile operations are no exception to this general rule.

Planning, budgeting, and the effective deployment of personnel and other resources are severely compromised unless the effectiveness of current juvenile operations can be compared with the stated expectations of departmental administration. Gathering the information needed to make this comparison is the function of a professional evaluation component within the police organization.

If evaluation is to make a meaningful contribution to juvenile operations, there must be substantial input and guidance from top administrators in formulation of the evaluative process. The police chief executive and key members of the department's management team must clearly convey to the evaluation staff the kind of information needed for improved decisionmaking and the specific uses for that information.

Planning for effective evaluation of police juvenile operations consists of five basic steps. Those involved should do the following:

1. Quantify, if possible, program goals and objectives in terms of measurable levels of achievement;
2. Establish quantified goal/objective relationships in order to determine the contribution of an individual project to overall program goals. This relationship can be constructed by using juvenile delinquency statistics, special studies, reports, and other data that indicate a relationship;
3. Develop evaluation measures for each project and for total police juvenile operations, in order to measure both efficiency and effectiveness. Measures of efficiency indicate how well a program is executed in terms of time, allocation of personnel and equipment, program activities, and funds spent. Measures of effectiveness are used to evaluate the impact of program activties on selected target problems, for example, reducing juvenile vandalism against school property. LEAA recommends that primary emphasis be placed on measures of effec-

tiveness—measuring project impact on the reduction of target crimes;

4. Identify the data needed to perform the evalution; and

5. Determine the analytical methods to be used for evaluation and establish management procedures to execute the analysis.

Evaluators should consider the possibility of using techniques designed to assess cost-effectiveness. Careful analysis of cost/benefit data can help police administrators determine the most efficient use of fiscal resources to achieve operational goals.

It is also important that the evaluation function be properly integrated into the department's organizational structure. Too often those at the line level —where the actual facts are collected, and about which assessments are made—perceive evaluators as being apart from the organization and imposing an additional workload or interference with established routine. Such attitudes hinder the evaluation effort and may compromise the eventual acceptance and usefulness of the final report. It must be clear from the outset that the department both wants and needs evaluation, and that specialists performing this function are an essential part of the modern police organization.

Many departments place the evaluation component in the planning unit. The rationale behind this organizational alignment is that there is a natural progression from evaluation to planning and that both functions need similar types of information.

If evaluation is placed in a centralized unit that operates throughout the department, it is essential that several staff members specialize in juvenile operations. In larger departments with sizable juvenile operations, it may be desirable to attach an evaluation component directly to the juvenile unit, if the workload justifies such an approach. Special projects of considerable size or significance may warrant a full-time evaluator as part of project staff.

To make an effective contribution to departmental operations, evaluation reports should be disseminated to all appropriate levels of command. Unfortunately, many police administrators have traditionally viewed evaluation with suspicion, as if its purpose was to tarnish the departmental image. This attitude is clearly inappropriate. The primary purpose of an evaluation effort is the constructive improvement of the agency. This can only be achieved by sharing information on the effectiveness of the department and its individual units with those responsible for leadership.

The competent, well-motivated administrator will welcome such objective input. With proper advance planning to insure relevance to the real world of police administrative decisionmaking, competent evaluation processes aid short- and long-term planning and enable police administrators to improve their operations continually. Such information also provides firm documentation of budgetary requests.

Reference

1. National Institute of Law Enforcement and Criminal Justice. *Evaluation in Criminal Justice Programs: Guidelines and Examples*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 7.3:

7.2 Planning Commitment

7.5 Planning Resource Allocation for Police Juvenile Operations

Standard 7.4

Citizen Involvement in Evaluation of Juvenile Operations

All police departments should establish citizen participation programs to aid in assessing effectiveness of police management of juvenile operations.

Commentary

One of the most successful but least used methods of assessing police management of juvenile operations is the citizen participation program, designed to obtain maximum feedback from the community. Citizen participation in this instance does not mean the type of police community relations effort oriented toward public relations. A true citizen participation program is a two-way street, and should be designed to:

1. Bring juveniles, their parents, and other concerned citizens into the operation of the police juvenile unit;
2. Encourage feedback from youths and their families on delinquency prevention and rehabilitation programs;
3. Encourage the participation of youths, parents, and other concerned citizens in police-sponsored delinquency prevention programs; and
4. Solicit information from youths, parents, and other citizens on community problems and solutions.

Without feedback, the police juvenile unit operates in a vacuum, often unaware of problems in the home that cause delinquency, of larger community problems, and the difficulties parents and juveniles face in dealing with police officers. No juvenile unit, no matter how professional, can expect to correct these problems if it does not involve its clients, their parents, and the community in planning and evaluating its delinquency prevention program.

One effective method of evaluating police performance is to conduct periodic surveys and interviews with juvenile clients and their parents. Questionnaires and interviews should elicit information on attitudes and feelings of the clients and their parents on the degree of police courtesy, fairness, impartiality, and willingness to protect juveniles' rights.

This type of mutual community-police assessment differs markedly in form, substance, and purpose from a formalized, scientific evaluation effort conducted by a component of the police department. While department-sponsored evaluation efforts are invaluable for assessing efficiency and effectiveness, they basically assume that the stated departmental objectives and goals are appropriate. Since the police function in society is to perform a variety of services in response to community needs, this joint citizen-police assessment program provides pertinent feedback on the relevance of police objectives.

This essential assessment of needs can only be made by establishing a vehicle for obtaining regular feedback from the community, to insure that police services are responsive to community goals and desires. The degree to which citizens perceive that police are responding to their wishes will, in large part, determine their assessment of police effectiveness.

References

1. Bosarge, Betty B. *Police-Community Relations.* Austin, Tex.: Texas Commission on Law Enforcement Officer Standards and Education, 1970.

2. Wilson, O. W. *Police Administration.* New York: McGraw-Hill, Inc., 1963.

Related Standards

The following standards may be applicable in implementing Standard 7.4:

4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation Efforts

Standard 7.5

Planning Resource Allocation for Police Juvenile Operations

State criminal justice and law enforcement planning agencies (SPA's) should do the following:

1. Determine actual expenditures by law enforcement agencies for those functions directly related to juvenile delinquency prevention and control; and

2. Through consultation and participation with local agencies and citizens, recommend expenditure levels according to type of jurisdiction and the population served so realistic statewide planning in the juvenile area can proceed.

Commentary

Local government and law enforcement executives frequently allocate funds to police juvenile operations in a haphazard manner. These executives often fail to consider the need for specific delinquency prevention and control programs or even the increasing rate of juvenile delinquency. In many departments, juvenile operations are underfunded and cannot realistically be expected both to deter and prevent juvenile delinquency.

There has been very little research in the United States to determine actual expenditures by law enforcement agencies for those functions directly related to delinquency prevention and control. Therefore, this standard recommends that SPA's conduct such research.

At present, budgeting is not a highly visible process. In allocating funds for police juvenile operations, municipal police budget officers generally base their estimates on what was allotted in the past, taking inflationary factors into consideration and relying on SPA funds for new or special delinquency prevention efforts. Unfortunately, as the National Advisory Commission on Criminal Justice Standards and Goals has pointed out:

> [The] history of both social and physical planning is replete with examples of insensitivity to cost—planners in general have been accused of not taking into account fiscal realities. [National Advisory Commission on Criminal Justice Standards and Goals, *Criminal Justice System* 21 (1973).]

In addition, a number of States have applied SPA and general State appropriations and local monies to contradictory purposes. For example, the SPA may be pouring funds into community diversion programs for first-time juvenile offenders while a municipal government, because of spiraling juvenile delinquency rates, may be heavily allocating its resources to the arrest and court referral of all juveniles who commit delinquent acts, including first offenders.

One solution to these problems is for the SPA to recommend for police juvenile operations expenditure levels that are based on the type of jurisdiction and the size of the population served, so that realistic statewide planning can proceed. The Michigan Council on Criminal Justice has designed just such a process, with the objective of developing a multiyear plan to prevent, control, and reduce crime and delinquency.

Because the vast majority of criminal justice expenditures come from the local level in most States, the success of planning efforts such as Michigan's depends upon the participation of local governments and the integration of planning efforts by various State and local operating agencies. Therefore, local agencies and citizens should be included in the processes of formulating recommended expenditure levels and providing much of the money needed.

Reference

1. National Advisory Commission on Criminal Justice Standards and Goals. *Criminal Justice System.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 7.5:

7.2 Planning Commitment
7.3 Evaluations Commitment

Standard 7.6

Personnel Selection and Development

Police juvenile officers should be assigned by chief executives on the basis of a departmental written and oral examination, rather than being appointed by a civil service or merit commission. Juvenile officers should, if possible, be selected from among the department's experienced line officers. Selection boards established to interview candidates for the position of police juvenile officer should include police department command officers and selected individuals from the juvenile justice system and public youth service agencies.

Police chief executives should allow qualified officers to pursue careers as police juvenile specialists, with the same opportunities for promotion and advancement as are available to other officers in the department. Police departments also should provide juvenile officers with salary increases that are commensurate with their duties and responsibilities.

Commentary

More effective leadership in the police service requires reshaping of some out-of-date organizational patterns and processes. This is especially true in the field of juvenile operations. All too often, this function is looked upon with derision in tradition-bound police departments and is considered to be a "social work" job unrelated to "real" police work. For many years the juvenile section has been an automatic assignment for women officers and a dead end job for those not deemed capable of succeeding in the detective division or command structure.

This standard underscores the importance of upgrading the quality and status of police juvenile operations. First, the standard calls for improved standards for the initial selection of juvenile officers. In assigning people to the juvenile unit, a commanding officer should personally interview each candidate, and the candidate should undergo a written examination specifically designed for the position.

Further, each applicant should be given an oral interview with a selection board composed of police command officers and individuals from other juvenile justice system components and public youth service agencies. Where permissible, a validated psychological test administered by the department should be required of all officers being considered for appointment to the juvenile unit.

Candidates for police juvenile officers should possess the following basic qualifications:

1. General police experience in the patrol service, with demonstrated competence;

2. Above-average intelligence and a desire to learn;

3. Desire to work with juveniles; and

4. Basic understanding of human behavior.

Secondary criteria for the selection of police juvenile officers should include:

1. Formal education, generally a college degree in the social or behavioral sciences, law enforcement, or criminal justice;

2. Ability to communicate with a broad range of people, from very young children to highly sophisticated professionals;

3. Ability to write effectively; and

4. Basic investigative skills, including interrogation, interviewing, and an ability to make effective courtroom presentations.

Other factors to be considered in selection include age, character, personality, temperament, emotional maturity, ability to make rational decisions, patience, ability to work with minimum supervision, and a good police department record and reputation.

Improving the initial selection procedures is only one step toward improving juvenile operations. Therefore, the standard further specifies that juvenile officers who demonstrate appropriate skills and abilities and wish to remain in the juvenile unit should be encouraged to do so. The department also should provide salary increases that are commensurate with the duties and responsibilities of the job performed.

References

1. Gomolak, Normand. *Missouri Police-Juvenile Officer Manual Guide*. Columbia, Mo.: Missouri Council on Criminal Justice, 1975.

2. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, 1973.

3. Murphy, Patrick V. and Brown, D. S. *The Police Leader Looks at the Changing Nature of the Police Organization*. Washington, D.C.: Leadership Resources, Inc., 1973.

4. National Advisory Commission on Criminal Justice Standards and Goals. *Police*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 7.6:

7.1 Organization of Police Juvenile Operations
7.7 Personnel Training

Standard 7.7

Personnel Training

State law enforcement training commissions should establish statewide standards governing the amount and type of training in juvenile matters given to police recruits and to preservice and inservice juvenile officers. Training programs should include the following elements:

1. All police recruits should receive at least 40 hours of mandatory training in juvenile matters;

2. Every police department and/or State or regional police training academy should train all officers and administrators in personal and family crisis intervention techniques and ethnic, cultural, and minority relations;

3. All officers selected for assignment to juvenile units should receive at least 80 hours of training in juvenile matters either before beginning their assignment or within a 1-year period;

4. All police juvenile officers should be required to participate in at least one 40-hour inservice training program each year, either within the department or at regional, State and/or national schools and work shops;

5. Where feasible, cities should exchange police juvenile officers for brief periods of time so those officers can observe procedures in other jurisdictions; and

6. Community, regional, or State juvenile justice agencies should periodically conduct interdisciplinary inservice training programs for system personnel, and police juvenile officers should actively participate in such programs. Community juvenile justice agencies also should exchange personnel on an interdisciplinary basis for brief periods of time, to enable such personnel to familiarize themselves with the operational procedures of other agencies.

Commentary

This standard emphasizes the overall importance of properly training police officers in juvenile matters. The minimum training requirements set forth are so essential to effective operation of the police juvenile function that State law enforcement training commissions should make those requirements mandatory for all departments.

Each subpart of the standard focuses on a different facet of training. These facets are:

Recruit Training

Police work has consistently ranked near the bottom in the amount of formal preservice training required. In many States, barbers and hairdressers receive as much as 4,000 hours of training before qualifying for a license. Yet only a handful of States require police officers to undergo more than the minimum 400 hours of basic recruit training recommended in 1967 by the President's Commission on Law Enforcement and the Administration of Justice.

The training of recruits in juvenile matters also is generally minimal. Since all police officers must deal with juvenile problems, it is extremely important that police departments and/or State or regional police academies provide extensive training in these matters at the recruit level.

Special Training Requirements for All Officers and Administrators

In addition to specialized training in juvenile matters, every police department and/or State or regional police academy should provide both recruit and inservice training in personal and family crisis intervention techniques and in ethnic, cultural and minority relations. All officers and administrators should receive this training.

It is especially important that such training be given at the recruit level to aid community interaction between officers and citizens. This training will help assure safety of officers and enable them to gain a better understanding of cultural differences and community problems.

Training in family crisis intervention techniques will enable officers to recognize delinquency problems brought about by family stress, and will teach officers how to mediate disputes. Such training, if properly administered, is also applicable to juvenile situations such as gang problems, fights, and student-teacher disputes.

The need to train each officer in ethnic, cultural, and minority relations cannot be overemphasized, for a lack of understanding in these areas often leads to police-citizen disputes, hostility, and a communication breakdown.

Preservice Juvenile Officer Training

The training of juvenile specialists should of course be more extensive. These officers should be required to participate in at least 80 hours of preservice training. If departmental budgets or training school schedules preclude immediate preservice training, it should be available within a 1-year period.

The Chicago Police Department conducts excellent preservice training for juvenile officers.

Inservice Juvenile Officer Training

In the rapidly changing field of juvenile justice, adequate preparatory training will not suffice. Therefore, inservice juvenile officers should be required to participate in at least one 40-hour training program each year. Such training enables officers to become acquainted with new court rulings and juvenile procedures, and to exchange information on problem areas with other juvenile officers.

Officers should attend these programs while on duty and with full salary. The inservice training requirement could be satisfied either by participating in programs developed by the department or by attending regional, State, and/or national schools and workshops.

Among the many excellent existing programs are those conducted by the University of Minnesota Juvenile Officers Institute, the University of Southern California Delinquency Control Institute, and the National College of Juvenile Justice.

Intercity Exchanges of Juvenile Officers

Cities should exchange juvenile officers for brief periods of time, enabling them to observe procedures that may differ from their own. Such exchange programs serve as an adjunct to the department's training efforts and allow participating officers to observe and learn new methods of delinquency prevention and control.

At the very least, the professional perspectives of those participating will be substantially broadened. Frequently those trainees can then help their own departments adopt the successful methods and programs they have learned elsewhere.

The training device of intercity exchanges should be incorporated as an integral part of the police department's formal career development program. The expense and occasional inconvenience entailed by such a training endeavor militate against its use merely as a reward for faithful service or as an isolated training device that is unintegrated with a carefully designed personnel development scheme.

Interdisciplinary Systems Training and Interagency Personnel Exchanges

The standard emphasizes the importance of a systemwide perspective for juvenile officers and other juvenile justice personnel. The standard specifies that community, regional, or State agencies should periodically conduct interdisciplinary training programs for system personnel, including juvenile specialists.

Interdisciplinary training has been emphatically endorsed by many organizations and experts in the police field. Such training can enable juvenile officers to establish better working relationships with personnel in other agencies. In addition, training programs help acquaint those officers with available community diversion programs, thus encouraging preadjudicative disposition and referral of juvenile delinquents to appropriate social service agencies.

It is also advantageous for different agencies in the juvenile justice system to exchange line personnel on an intracity basis for brief periods of time. For example, a probation officer would be traded to the police juvenile unit for several days as an observer and a juvenile officer would be sent to the probation department. Each would observe the other's job and duties, and thus gain increased knowledge of how the various components of the system function on an operational level. Police departments should make maximum use of such exchanges in training juvenile officers, both on a pre- and inservice basis.

References

1. Kobetz, Richard W. *The Police Role and Juvenile Delinquency*. Gaithersburg, Md.: International Association of Chiefs of Police, 1971.

2. President's Commission on Law Enforcement and the Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 7.7:

7.1 Organization of Police Juvenile Operations

7.6 Personnel Selection and Development

Standard 7.8

Participation in Juvenile Justice Higher Education Programs

Police departments should encourage all officers to pursue college and university education in juvenile problems and related disciplines. Where feasible, departments should provide leaves of absence with pay to allow the achievement of academic objectives that can contribute significantly to the employee's professional growth and capacity for current and future assignments.

Commentary

Thousands of Federal, State, and local law enforcement officers have been receiving Federal aid to attend college through the Law Enforcement Education Program (LEEP) of the U.S. Justice Department's Law Enforcement Assistance Administration. Also, 666 colleges and universities have federally funded law enforcement and criminal justice degree programs, from the associate through the doctoral levels. These programs are generating an obvious increase in the number of college-educated police officers.

In line with that trend, this standard specifies that police departments should encourage all officers, especially those in the juvenile unit, to pursue undergraduate and graduate studies in disciplines related to juvenile justice, including such subjects as sociology, family problems, and psychology. Where feasible, police departments should provide one or two semesters of academic leave with pay to those officers who require a short period of time to complete their degree programs, or those who wish to participate in college and university institutes and seminars on juvenile justice.

The attainment of specialized advanced education by police juvenile officers should benefit the community, as the officers will acquire new skills and insights that can help them serve the juvenile population more effectively. However, in planning for departmental higher education programs, it is essential to take steps to make the most use of an individual's broader skills once they are obtained. Where this problem is not addressed in the department's overall career development plan, highly trained officers often become frustrated and may find other employment opportunities that allow them to exercise their capabilities more fully.

Police also should work with colleges and universities to establish needed curricula for juvenile justice education, including special institutes or workshops, where such programs do not exist. In this manner, the police generate a broader base of community knowledge about juvenile justice processes and problems.

Full-time undergraduate and graduate students who enroll in these courses are potential recruits, and the faculty and graduate students may conduct research in delinquency prevention and enforcement operations that could be beneficial to the department and the community. In addition, establishing continuing relationships with colleges and universities often results in the identification of consultant resources for academy or inservice training programs and assistance on unusual problems.

References

1. Kobetz, Richard W. *Law Enforcement and Criminal Justice Education Directory 1975–76.* Gaithersburg, Md.: International Association of Chiefs of Police, 1975.

2. Santarelli, Donald E. "Education for Concepts —Training for Skills," *Police Chief,* Vol. 41 (August 1974).

Related Standards

The following standards may be applicable in implementing Standard 7.8:

7.6 Personnel Selection and Development
7.7 Personnel Training

Standard 7.9

Controls and Disciplinary Procedures

The police chief executive should develop written policy guidelines to measure the performance of police juvenile personnel and insure that those individuals perform their duties in a professional manner.

Commentary

Police chief executives must insure that members of their juvenile units comply with the essential professional and public requirements of police officers. Thus departments must develop policies in such difficult areas as the use of force when dealing with juveniles, various moral issues, corruption, observance of civil and legal rights, and the maintenance of professional relationships with the public.

The police chief executive should make special efforts to clarify police requirements through clear-cut written guidelines. The entire leadership structure of the police department should be included in these policy development efforts. This reinforcement is particularly important in difficult policy areas.

It is also critical to develop an effective communications system to insure that the letter and spirit of policy development efforts. This reinforcement is In instances where a policy statement represents a significant or controversial departure from traditional practice, executives should clarify that change through explanatory memoranda, supervisors' conferences, appearances at roll calls by command personnel, and other techniques.

Departmental controls should provide for measuring performance against the standards established and for taking appropriate action to correct deviations. The police chief executive must insure that juvenile officers uphold the integrity of the department and refrain from engaging in activities that debase the police profession. Accountability is essential for any system of policy controls to have significant, positive impact on departmental performance.

In the absence of definitive guidelines, it becomes difficult to enforce disciplinary standards, particularly in matters that involve the changing mores of society. A clearly written policy will help the police chief executive handle disciplinary problems involving juvenile officers by providing objective, preestablished criteria for measuring officers' performances.

References

1. Kassoff, Norman. *The Police Management System.* Gaithersburg, Md.: International Association of Chiefs of Police, 1967.

2. Murphy, Patrick V. and Brown, D. S. *The Police Leader Looks at the Changing Nature of the Police Organization.* Washington, D.C.: Leadership Resources, Inc., 1970.

3. Rubenstein, Jonathan. *City Police.* New York: Farrar, Strauss and Giroux, 1973.

4. Smith, William H. T., and Sprecher, D. A. *The Police Leader Looks at Unrest Within the Department.* Washington, D.C.: Leadership Resources, Inc., 1973.

Related Standards

The following standards may be applicable in implementing Standard 7.9:

4.2 Police Responsibility in Protecting Integrity of the Law
4.4 Guidelines on Use of Police Discretion

Part 4
Judicial Process

INTRODUCTION

May 15, 1967, marked a critical turning point in the history of juvenile justice. On that date, a majority of the members of the U.S. Supreme Court proclaimed that the essentials of due process and fair treatment were guaranteed to Gerald Gault of Arizona by the 14th amendment to the Constitution. The ruling abruptly overturned a long line of State appellate court decisions. Those decisions had been grounded on the rationale that the juvenile courts were civil in nature, and because the express purpose of these courts was rehabilitation rather than punishment, important rights derived from the Federal Constitution need not apply.

Prior to the *Gault* decision, and beginning in 1961, several States had enacted revisions of their juvenile codes. Among these were California, New York, Illinois, Utah, and Colorado. On examining their longstanding statutes, the lawmakers in these States had found broad jurisdictional provisions that authorized judicial intervention for a rather enormous variety of often vaguely described juvenile misconduct. Such proscriptions were the inheritance of the optimistic legislation that had swept across the Nation during the juvenile court reform movement of the first two decades of this century. The purpose clauses of the old acts enunciated the great objectives: to retain the children in their own homes wherever possible; to remove them from their families only when necessary for their welfare or that of the community; and upon removal, to secure the care and guidance that should have been provided earlier through parental and community resources. But the laws were largely silent as to the juvenile's rights. And they provided little guidance to the judge in the exercise of his or her wide-ranging discretion.

The lawmakers and the Supreme Court Justices measured these laws' promises against demonstrated performance. And they viewed the courts' pretensions against the diverse social and legal currents of the 1960's: urbanization, increasing juvenile crime, demonstrations, and the extension of constitutional rights to minorities, criminal defendants, and the poor. It became clear that the courts' practices had to be refined and paired with procedural regularity and legal constraints.

Critics of the *Gault* decision predicted that there would soon be no difference between the criminal and juvenile systems. Therefore, they argued, specialized courts for juveniles might as well be abolished. But post-*Gault* legal developments have not borne out their contentions.

The U.S. Supreme Court focused on the juvenile system again in *In re Winship,* 397 U.S. 358 (1970), holding that the standard of proof for a delinquency adjudication was "beyond a reasonable doubt." The Court reasoned that because a deprivation of liberty might follow the adjudication, proof of the charge must meet the same standard employed in adult criminal proceedings. But the following year, in *McKeiver* v. *Pennsylvania,* 403 U.S. 528 (1971), the Court held that the U.S. Constitution does not require the States to provide a jury trial in delinquency cases. One of the Court's concerns in *McKeiver* was that requiring trial by jury in juvenile proceedings "would bring with it into that system the traditional delay, the formality and the clamour of the adversary system. . . ." 403 U.S. at 550.

As Professor Davis observes:

> An integral part of the Court's decision in *Gault* was the Court's belief that according juveniles the rights granted in the decision was *consistent with* the beneficient purposes of juvenile court treatment. 387 U.S. at 21–27. The Court in *McKeiver,* however, felt that granting a right to jury trial would be destructive of the same purposes. [S. Davis, *Rights of Juveniles,* 183 (1974).]

That *McKeiver* did not, however, indicate a retreat from the important due-process concerns emphasized by *Gault* was highlighted by *Breed* v. *Jones,* 421 U.S. 519 (1975). In *Breed,* the Court applied the double jeopardy clause of the fifth amendment to invalidate the adult conviction of a child earlier adjudicated delinquent in a juvenile court for the same offense.

The decisions in State appellate courts have followed a similar pattern. Many cases have extended due-process rights to various facets of juvenile proceedings. Other cases have upheld juvenile practices that would probably not pass constitutional muster if they occurred in criminal proceedings. The absence of a bail provision in most juvenile codes is one example. The vague nature of incorrigibility and other status offense proscriptions is another. Such statutes have generally been upheld, in contrast to a number of vagrancy or disorderly conduct laws ruled unconstitutional for adults.

The overall impact of these recent judicial decisions and statutory reforms has not been to curb the laudatory goals of the specialized courts dealing with juveniles. *Parens patriae*, the court as the guardian or responsible authority for the children of the land, remains a cardinal ingredient underlying the philosophy of the courts handling juvenile matters. The issue is not due process versus *parens patriae*. It is, rather, that a balance has to be struck.

To assist, guide, rehabilitate, censure harmful behavior, and protect the interest of children and of the community are still paramount to the spirit of these forums. But now, judicial intervention and helping services must be tailored to the legal fabric.

It is against this background that this report approaches the myriad important issues relating to judicial process in the contemporary juvenile system. In the past decade the movement toward statutory reform begun in the early sixties has proceeded apace. Several States have recently revised their juvenile codes; many others are currently reviewing and redrafting these laws. The standards in this part of the report are intended to provide helpful guidance for a thorough re-visioning of the appropriate responsibilities and procedures in judicial processing of juveniles.

Court Structure

The standards in Chapter 8 focus on court structure. Nearly all States presently handle juvenile matters in separate juvenile courts. This report concurs with the proposition that those youths for whom the rehabilitative purposes of the juvenile system are appropriate should not be handled by the adult criminal system. But the report does not endorse the traditional juvenile court structure. Instead, this report urges that the responsibility for juvenile matters be vested in a family court division of the highest court of general trial jurisdiction. This organizational scheme recognizes that juvenile problems often involve the entire family unit. Separate juvenile courts too often see only one portion of a child's life and are unable to obtain an overall perspective on his or her problems. Adoption of the family court division is one of this report's most important recommendations.

Jurisdiction—Scope of Authority

The 1970's have already witnessed a substantial reassessment of the appropriate responsibilities of a variety of different courts. The advent of no-fault auto insurance legislation has considerably reduced caseloads of civil courts holding auto negligence jurisdiction. Reforms in divorce laws have largely eradicated the contested trial of divorce petitions in many States. Several jurisdictions have repealed the crime of public drunkenness, markedly changing the role of the lower criminal court. In New York City the processing of traffic offenses has been shifted from the courts to an administrative agency.

This general rethinking of the proper scope of judicial responsibilities has extended to the juvenile system as well. Claims of success with many youth have led some observers to ask whether these youngsters could not have achieved constructive adjustment with little or no intervention by the court. As an example, some have suggested that status offenses should be repealed and courts should deal principally with more serious and repeated delinquents. Others view the court as basically a children's court and argue that cases involving criminal-like youth should be routinely handled by the adult criminal system. This report recommends that the court's jurisdiction should include: (1) Delinquency; (2) Families With Service Needs; and (3) Endangered (Neglected or Abused) Children.

1. **Delinquency.** The standards in Chapter 9 focus on delinquency. At present, many States define delinquency as truancy, running away, and other misbehaviors that would not constitute crimes if committed by adults. This report rejects this approach and recommends that delinquency jurisdiction should be coextensive with the court's authority over juvenile criminal behavior. Recognizing that cases arise where the juvenile system's rehabilitative orientation designed for immature delinquents is inappropriate, we outline procedures for waiving jurisdiction and transferring certain juveniles to the adult criminal court.

2. **Families With Service Needs.** This report expresses dissatisfaction with the current approach to status offenders and with recent proposals to abolish judicial authority over cases of this type. The standards in Chapter 10 authorize jurisdiction over a limited number of well-defined behaviors: school truancy, repeated disregard for or misuse of lawful parental authority, repeated running away from

home, repeated use of intoxicating beverages, and "delinquent acts" by children younger than 10 years of age. The standards focus on the family as a whole and require findings that all available voluntary services have been exahusted and that the behavior requires court jurisdiction to provide services.

3. **Endangered (Neglected or Abused) Children.** The subject of the proper scope of child neglect laws is currently the topic of considerable debate. This report recommends comprehensive revisions in this area. Vague, ill-defined laws have too often led to intervention that has removed children from their homes and consigned them to inadequate foster care for extended periods. The standards in Chapter 11 indicate that coercive intervention should be authorized only in the face of serious, specifically defined harms to the child. They also set forth detailed guidelines to help provide children with permanent, stable family homes.

4. **Other Family-Related Legal Matters.** The jurisdiction of the family court should also include such things as domestic legal relations, adoptions, civil commitments, concurrent jurisdiction over intrafamily crimes, contributing to the delinquency of a juvenile, criminal nonsupport, criminal neglect, and the Interstate Compact on Juveniles and Uniform Reciprocal Enforcement of Support Act. The report recommends this consolidation of jurisdictional authority over family-related legal matters because that approach will enable the judicial system to provide a more consistent and constructive course to the resolution of family-related legal problems.

Preadjudication Processes

Several States have recently revised their statutes governing the criteria and procedures for preadjudicatory detention of juveniles. And a growing body of case law in the lower courts is focusing on such practices. But many states have not yet spoken to this issue. And guidelines for a number of other preadjudicatory processes are largely lacking. The report focuses on these important issues in Chapter 12, emphasizing the objectives of efficient case flow management and procedural fairness. The standards also set forth appropriate controls on detention of alleged delinquents and temporary out-of-home placement in Families With Service Needs and Endangered Child cases.

Adjudication Processes

This report calls for the prohibition of plea negotiations in the juvenile process. Where such abolition is completely untenable, the commentary outlines a series of controls to curb the abuses of this practice (see commentary to Standard 13.1).

The adjudicatory hearing itself has of course already received considerable attention in judicial decisions and statutory revisions. In the post-*Gault* era this hearing has changed markedly toward formality. Consistent with these developments, the standards in Chapter 13 outline those rights that should be assured in the hearing process.

Dispositions

Although the adjudication processes have been the subject of increasing attention, few States have undertaken a thorough study of dispositions in juvenile proceedings. The standards in Chapter 14 examine juvenile dispositions in considerable detail. For delinquency cases they call for legislative determinations of the maximum types and duration of dispositions for different classes of delinquent acts according to the seriousness of the conduct. They also outline formalities for the hearing and criteria for selecting a disposition designed to insure procedural regularity and fairness. And they indicate that the court should select the least coercive type and duration of disposition appropriate to the seriousness of the delinquent act, as modified by the degree of culpability indicated in the particular case and by the age and prior record of the juvenile.

In addition, the standards set forth separate guidelines for dispositions in Families With Service Needs and Endangered Child cases. They also establish mechanisms for postdispositional monitoring of Endangered Children designed to eliminate the harmful practice of leaving these youngsters in limbo—in foster care for extended periods.

Legal Counsel

The provision of legal counsel in juvenile proceedings is one of the most important developments in this forum in recent years. It means that the judge may now be a judge and no longer has to assist prosecution or defense interests in the courtroom. The *Gault* proclamation spurred sharply greater representation on behalf of the child and embedded the right to counsel in U.S. juvenile justice. But the scope of this right, the proper stages of representation, and the appropriate role of the child advocate have not been fully clarified. Likewise, an increased prosecution presence symbolizes both the recognition of the frequency and severity of delinquent acts, as well as the need to appropriately balance the State's interest with defense advocacy. But the duties and powers of the State's attorney are similarly ill-defined. The standards in Chapters 15 and 16 seek to clarify these issues for prosecution and defense alike.

Judicial Officers and Nonjudicial Personnel

The provision of competent, highly trained judges is of vital importance to the juvenile system. Many judges presently handling juvenile proceedings are qualified, indeed. But the reports of numerous national commissions have emphasized that fully qualified judges are unfortunately still in a minority. The standards in Chapter 17 are designed to upgrade the quality of judges and their administrative support staffs by improved methods of selection and training. In view of the sociolegal nature of juvenile proceedings, interdisciplinary training programs are especially important.

Relation of the Court to Other Justice and Community Agencies

To function effectively, the court must maintain close working relations with a host of private and governmental agencies and with the public. The court's relations with other agencies have received increasing attention in recent times as some judges have pressured public agencies that are under statutory mandates to fulfill certain functions. Agencies that provide foster or group home care, for example, have been required to return and document the quality of care actually provided.

In addition, some judges have carefully tested the use of the inherent-powers-of-the-court doctrine to obtain authorization for additional probation personnel. A number of judges have also been active in taking their case to the community and interacting with the public at large.

The standards in Chapter 18 focus on these issues. They emphasize the leadership role of the court in building strong interagency and public relations and in supporting youth serving efforts in both the public and private sectors.

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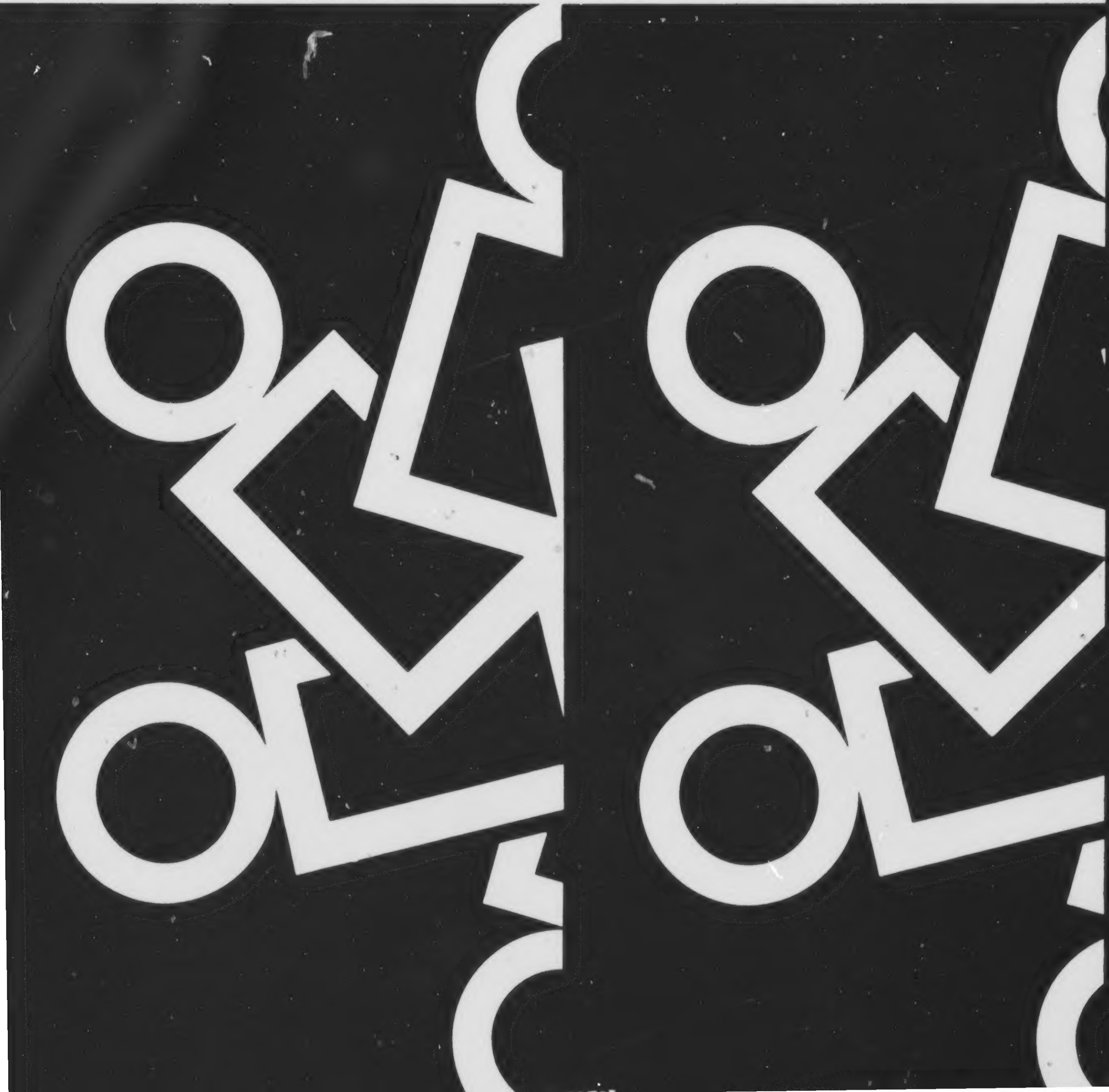
Chapter 8

Court Structure



INTRODUCTION

The implementation of the recommendations set forth in this chapter will result in a profoundly different judicial system approach to juvenile and family legal concerns. The achievement of an operational family court division will require, except for a few jurisdictions, either a new court structure or a new organizing principle; for many States, both such changes will be necessary. The achievement of an effective family court division will require much more.

The standards that follow urge the formation, by statute or rule or both, of a family court division that combines, at a minimum, the basic juvenile jurisdiction of delinquency, Families With Service Needs, and Endangered Children (dependent, neglected, or abused) with the fundamental domestic relations jurisdiction, which includes divorce or dissolution of marriage and such related matters as child-custody and -support determinations. Where practicable, additional family-related legal cases should be heard in this division: adoption and its precursor, the voluntary or involuntary termination of parental rights; petitions to determine the paternity of a child and child-support matters growing out of such a determination; commitment and review procedures concerning persons alleged to be mentally ill or retarded and for whom judicial hearings are indicated; and intrafamily criminal offenses, particularly those of a misdemeanor nature. Other traditional, miscellaneous matters presently heard in juvenile courts, such as guardianships of minors and judicial permission for marriage, are appropriate to this setting. Petitions under the uniform reciprocal enforcement of support laws also should be heard here.

This report stresses the implementation of the family court division as among its highest priorities. This division should be structured in the highest general trial court in each State. Accordingly, division judges should be assigned from the most prestigious trial court bench. To achieve necessary specialization, assignment should be for the duration of a family division judge's particular term of office.

Only judges should preside over family court division hearings. The employment of referees, commissioners, masters, or judicial officers to hear such matters is specifically rejected.

Each State should promulgate rules of procedure and relevant rules of administration applicable to the family court division.

These court-structure standards are based on the following eight principles.

Children and Youth as a National Asset

Children become youth, youth become adults, and adults become parents and employees or employers who contribute to the development of American life. A growing population, a rapidly changing society, the heightened divorce rate, and the greater incidence of delinquency and child neglect and abuse have resulted in substantially increased judicial system intervention into the life experiences of ever more American families. More children now have not only a stepparent, but also a judge, probation officer, or a protective services agency social worker. It is especially critical that judicial decisions that pertain to children and youth be determined both on law and on those considerations that are most likely to lead to constructive citizenship.

The Family as a National Asset

The family is the fundamental organizing principle of American social life. With exceptions, children grow up with their parents or parent, transcend the different stages of development in their own homes, and ultimately emerge into independence and, in turn, their own parenthood. Although children and youth undergo other wide ranging socialization experiences and may require external support assistance during their passage to independence, the family is their basic nurture and support. This report affirms the significance of the family and believes that the impetus it provides to the family court division construct will lead to extremely valuable benefits for future generations.

The Integration and Coordination of Family-Related Legal Intervention

Today's reality in the overwhelming majority of States is that families beset with legal problems are dealt with by different courts or court divisions, judges, and probation personnel. Even lawyers are sometimes uncertain as to the particular forum where an action should be initiated. Characteristically, the child's delinquency is heard in one court, his or her parents' divorce in a second court, a family member's mental illness commitment proceedings in still another, and an assault between two members of his family in yet another court. Typically, there is no systematic provision for different judges to learn of the related cases that have involved this family. Information that is important to developing carefully crafted decisions is frequently unavailable to the decisionmaker. Further, there may be organizationally separate juvenile probation, felony probation, misdemeanor probation, court domestic relations counselors, and a variety of social service personnel, all involved with this family in an uncoordinated fashion. The report suggests that these problems of fragmentation, duplication, and isolation can be substantially reduced through implementation of the family court division. The well-coordinated, well-managed family court division, conscious of its purpose, objectives, and procedures, can do much to concentrate legal and social resources to improve family welfare and enhance individual adjustment.

As a Trial Court of the Highest Status

Clearly, courts of juvenile jurisdiction have not been afforded the status, authority, or dignity that the importance of their subject matter requires. This has been due, at least in part, to the juvenile court's emphasis on rehabilitation, together with its historic underemphasis on legal procedure. This has resulted, as well, from its separate organizational structure or its placement within a lower trial court in many jurisdictions.

At this time, countless States are reviewing their general court organizations and preparing reforms that would reduce or eliminate overlapping jurisdiction and structural anachronisms and would facilitate simplicity, efficiency, and managerial flexibility. The standards in this chapter are consistent with the clear direction of recent national commissions that support the concept of a unified trial court—a single trial court in each judicial district. The unified trial court could consist of such specialized divisions as criminal, civil, family, and probate. Where States phase into unification and at first structure two levels of trial court, the family division should be a part of the upper trial court.

All Cases to Be Heard by a Judge

In too many juvenile courts today, the judge or judges determine far fewer cases than the referees, masters, or commissioners who have been appointed to serve as judicial hearing officers. This practice demeans the importance of this forum. Further, juvenile court judges are not always lawyers, and the referees, masters, or commissioners also are not always lawyers. In some jurisdictions, probation officers also serve as referees.

This report suggests that these practices weaken and cheapen juvenile justice, and that funding bodies should abandon the view that it is a better policy to provide the lesser costs for a referee than to provide the greater costs for a judge inasmuch as juvenile justice is concerned only with juveniles.

The great growth of law in juvenile courts in the past decade mandates that all judicial hearing officers for courts that include juvenile jurisdiction be attorneys. To achieve the status that this jurisdiction richly merits, all lawyers who hear such cases should be full-fledged judges.

Judges Should Possess Special Qualifications

Family court division judges require both strong legal skills and special sensitivities in human and community relations. They also require a strong working knowledge of community rehabilitation agency services and social science research.

These characteristics and other preferable qualifications that could be added cannot be met by all judges. However, many members of the general trial court bench, including those who have never experienced a juvenile or domestic relations court, can develop into effective family court division judges. Interest alone should not qualify for assignment to this division. Interest must be combined with legal and communication skills and other qualities previously set forth.

It is critical that a presiding judge of the general trial court recognize and implement a commitment to assigning superior judges to the family division. Clearly, this is not the division that should receive routinely the least senior judge or the judge of the lowest status or the judge least learned in the law. This division deserves the best trial jurists.

As a Court in the Mainstream of the Judiciary

There is danger that the juvenile court's former problem of isolation from the judicial mainstream will continue in conjunction with the recommended standard that judges who serve here should not rotate to other divisions during the period of their particular tenure. Although it is a specialized division, the family jurisdiction must have strong linkages with the general trial bench; it should not be viewed as the exclusive domain of a particular judge or judges.

Family division judges should participate actively in the collegial concerns of the overall judiciary; they should seek counsel from nondivision judges on ways to enhance the effectiveness of the division; the division's administration and budget should be integrated with that of the general trial court; and dependent upon their respective workloads, family division judges should assist the judges of other divisions and the reverse should also occur.

As a Court of Law Using Coordinated Social Services

The debate is now long finished. The court of juvenile jurisdiction is a court of law upon which social and rehabilitation services have been grafted; it is not a social agency that utilizes legal authority. Constitutions, statutes, rules, and decisional law are central to its processes and decisions. Collaborative social and rehabilitation service agencies are central to the successful implementation of its orders.

Four primary characteristics of the family court division should be outlined here:

1. **Comprehensiveness of Family-Related Jurisdiction.** A broadly based jurisdiction should enable the basic family-related legal concerns to be heard in the same forum.

2. **The Operating Concept of One Family, One Judge.** Court calendars should be organized to provide for judicial continuity in reaching decisions concerning the different members of the same family. However, where judicial overfamiliarity may lead to prejudgment, this family member should be scheduled to go before an alternate judge.

3. **Juvenile Intake Practices Should be Expanded to Other Causes of Action Within the Division.** The established merit of screening, diversion, and adjustment of appropriate cases without formal court intervention, exemplified in the delinquency intake process, can be profitably adapted and applied to other jurisdictional matters, such as requests for mental illness or retardation proceedings, paternity and support petitions, endangered child concerns, domestic relations causes, and other legal matters that are subject to the division's jurisdiction.

4. **Social Service Agencies Assisting Court Clientele Should Place Greater Focus on the Family.** The presently specialized and fragmented delivery of social services to court-involved family members should be reorganized to direct greater attention to the interaction and welfare of the entire family.

Implementation of the Family Court Division

Despite the priority accorded to the creation of this division, its implementation should be preceded by careful planning. Statutory changes will be necessary, in a number of States, to reorganize this jurisdiction within the general trial court. It is believed that constitutional changes will be needed in only a few States. State supreme courts or judicial councils will need to promulgate administrative rules governing such an organization. Attitudinal changes and strong educational efforts will be needed to clarify the advantages of the division to such groups as judges, legislators, bar associations, social service organizations, and the general public. Court administrative personnel will need to be trained and employed to provide the skills required to implement well-organized divisions. Technological improvements will be necessary to provide management information systems with an easily retrieved record about a particular family's previous involvement with this division that notes which judge earlier heard this case so that the new matter can be calendared before the same judge. Attention must be given to further refinements in the preparation, storage, retrievability, and maintenance of court records.

A family court division should not be organized with separate juvenile and domestic relations branches, operating under a common presiding judge, as has occurred in some jurisdictions. Rather, it should be a coordinated mechanism whose objectives and working procedures are clearly thought through, whose judicial and nonjudicial personnel have the technical skills and philosophic insights critical to this mission, and whose collaborative social service agencies mesh with the court's requirements and expectations.

Some jurisdictions may prefer to take the first major step—the merger of juvenile and domestic relations jurisdictions—and reach a high performance level with this undertaking before moving to absorb additional types of actions into this forum. States that have already unified their trial courts or that have organized juvenile jurisdictions within their highest general trial courts can proceed rapidly.

The family court division concept also applies to our more rural courts. There, although a single judge presently may hear many of the matters contemplated for the division, much more can be done in comprehending the special opportunities offered by a more thorough understanding and more comprehensively organized judicial system approach to division objectives.

Finally, the probation profession and other helping service agents will need to think through these standards and reorganize to meet their objectives.

Standard 8.1

Level and Position of Court Handling Juvenile Matters

The court having jurisdiction over juvenile matters should be at the level of the highest court of general trial jurisdiction and should be a division of that court. This court also should have authority to assume jurisdiction over all family-related legal matters (see Standard 8.2., Family Court Structure).

Commentary

This standard offers two recommendations regarding the level and organizational status of the family or other court dealing with juvenile and family-related legal matters. The first recommendation is that the family court be placed at the level of the highest court of general trial jurisdiction rather than at a lower trial court level. Salaries, physical facilities, and the prestige of the court can all be affected negatively by locating it at a lower level. These factors often limit the ability of the court to attract competent jurists. It is also true that structuring the family court at a lower level has a direct effect on the credibility of the court as a court of original jurisdiction. In such jurisdictions, cases are usually appealed to the general trial court. This practice is inefficient and may tend to dilute both the individualized approach to the problems of juveniles and the rehabilitative ideal for which the court handling juvenile matters was specifically created.

The rationale for the historic placement of juvenile courts in lower trial courts in a number of States is not clear. Possibly it was to provide more local attention to juvenile concerns, much like justices of the peace were created to deal with local legal concerns. Quite possibly, early lawmakers saw the juvenile court as an inferior one, symbolic of the legal status of children. Yet in many States today, the juvenile court is a part of the general trial court. This is true even in States with large rural areas such as Florida, Colorado, California, and Alaska.

The second recommendation is to establish the family court as a division of a general trial court at the highest level rather than as a separate court. Separately organized juvenile courts, as they exist today in several States (e.g., Connecticut and Utah) and in parts of other States (e.g., Georgia and Kansas), will probably encounter increased resistance from legislative funding bodies concerned about duplication of effort. An integrated organizational structure will result in more efficient and effective administration. In addition, coordinated administrative effort will allow the courts of general trial jurisdiction to compete on a unified basis for funding, physical facilities, and the services of jurists.

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Related Standards

The following standards may be applicable in implementing Standard 8.1:

8.2 Family Court Structure
8.3 Judicial Proceedings Heard by a Judge
13.8 Appeals
17.2 Training and Compensation of Judges
17.3 Interim Use of Other Judicial Officers
17.4 Nonjudicial Support Personnel
17.5 Training and Compensation of Nonjudicial Support Personnel
18.1 The Court's Relationship With Law Enforcement Agencies
18.2 The Court's Relationship With Probation Services
18.3 The Court's Relationship With Public and Private Social Service Agencies
18.4 The Court's Relationship With the Public
18.5 The Leadership Role of the Family Court Judge

Standard 8.2

Family Court Structure

Each State's judicial system should include a family court. Family court jurisdiction should include: juvenile delinquency, domestic legal relations, adoptions, civil commitments, Families With Service Needs, Endangered (Neglected or Abused) Children, concurrent jurisdiction over intrafamily crimes, contributing to the delinquency of a juvenile, criminal nonsupport, and the Interstate Compact on Juveniles and Uniform Reciprocal Enforcement of Support Act.

Commentary

This standard recommends a dramatic reform of court structure in most States. It proposes transforming the juvenile court into a family court with jurisdictional power broad enough to encompass a wide range of family-related legal problems. This proposal is based on the premise that such a consolidation of jurisdictional power will enable the judicial system to affect the family unit more constructively.

All recent model acts and nationally promulgated standards have recommended the family court structure. Yet a survey of the States makes clear the wide gap that exists between what is being practiced and what has been recommended. Establishing such a family court structure will require, in many States, major reorganization efforts with respect to the present court system. The cost of such a reorganization could be substantial, especially in the short term. However, the family court structure is proposed because it is believed to be the most efficient, the most logical, and in the final analysis, the most effective way to deal with the large number of legal problems facing today's families. Thus, the ultimate cost in dollars must be weighed against the potential cost in children's lives and in the stability of the family unit if the traditional system is retained.

Creation of a family court structure can overcome the disadvantages inherent in the traditional specialized court system. In a system where one court—a juvenile court—handles only cases directly related to juveniles and another—a domestic relations court—handles divorce actions, adoptions, etc. and still another court handles intrafamily crimes, all face problems caused by an unnecessary separation of jurisdictional power. Family-related legal problems have a common root. To treat these problems in separate courts is to encourage inconsistent orders and to upset needlessly the lives of families who appear before the court.

Consolidation of jurisdictional authority is needed in order to provide a more consistent approach to the resolution of family-related legal problems.

Further, a more understanding consideration of a family's problems would be fostered by scheduling cases so that the judge who hears a divorce action would also preside over a delinquency hearing for a child of that same family. This scheduling procedure would result in a higher degree of consistency and quality in court orders; a more effective case-flow management system can be designed to achieve this goal.

This standard is not intended to conflict with the original purpose and design of the juvenile court. Individualized justice for juveniles and the traditional rehabilitative ideal of the juvenile court can and should be maintained within the framework of a family court. The added advantage of the recommended court structure is the opportunity it provides for increased influence over the total family environment, which is often both a contributing factor underlying delinquent behavior and the key to an effective rehabilitation program.

The various family-related legal problems that are intended to come under the jurisdiction of the family court are enumerated in the standard. For the most part, the reasons for including them are obvious. But one point, civil commitments, bears special mention. It is the intention of this standard that all civil commitments be handled by the family court including commitments for mental illness, retardation, and addiction to alcohol or narcotics. Justification for this position is the fact that, more often than not, even adult civil commitment proceedings and the resulting orders of commitment have either a direct or indirect effect on the person's family. When a parent must be removed from the home and placed in an institution because of mental illness or alcohol or narcotics addiction, there are major ramifications for the family in terms of continuing child care, financial support, and various other aspects of the family function. These kinds of problems are family-centered and should be within the jurisdiction of the court with the special expertise and resources to handle them.

It must also be recognized that including all civil commitments within the jurisdiction of the family court creates some potentially very serious judicial and service resource problems. There will, for example, be a certain number of commitment proceedings before the court that carry with them no existing or potential family problems, but for which the family court resources will have to be expended to deal with them. However, the number of these commitments likely will be small; the resources and time entailed in separating them out, if not handled by the family court, would be wasted. A more difficult problem is that of being certain that the family court is given resources and personnel commensurate with its jurisdictional power over all civil commitments. States that adopt this standard may have to make major changes in their resource allocation systems. To do so seems wise in light of the expanding reach of the civil commitment procedures and the absurdity of a wide grant of jurisdictional power with inadequate resources to perform the duties flowing from that power.

Furthermore, the family court will need to develop rules and procedures for insuring that juvenile matters receive a proper share of family court resources. Juvenile matters must not become lost in nonsupport, custody, divorce, and other actions. Larger jurisdictions might want to consider establishing a separate section within the family court to handle juvenile matters.

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Related Standards

The following standards may be applicable in implementing Standard 8.2:

2.9 Resource Allocation
8.1 Level and Position of Court Handling Juvenile Matters
8.4 Family Court Judges
9.1 Definition of Delinquency
10.1 Families With Service Needs Petition
10.2 Allegations Contained in the Families With Service Needs Petition
10.3 Scope of Jurisdiction
11.1 Respect for Parental Autonomy
11.2 Focus on Serious, Specifically Defined Harms to the Child
11.3 Elimination of Fault as a Basis for Coercive Intervention
11.8 Statutory Bases for Coercive Intervention
15.1 Family Court Prosecution Services—Organization
16.6 Representation for Parents in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
17.1 Selection of Judges
17.2 Training and Compensation of Judges
17.3 Interim Use of Other Judicial Officers

Standard 8.3

Judicial Proceedings Heard by a Judge

All judicial proceedings relating to juveniles, including but not limited to detention, shelter care, waiver, arraignment, adjudicatory, and dispositional hearings should be heard only by a judge.

Commentary

For many years, many trial courts handling juvenile matters have relied on quasi-judicial personnel to preside over such pretrial matters as temporary placement and detention hearings as well as adjudicatory and dispositional hearings. It is recognized that the use of personnel such as referees, commissioners, and masters may be helpful in assuming some of the workload of an overburdened judge. Nonetheless, it is the intention of this standard that decisions affecting the freedom of an individual child should be made only by judges.

Hearing officers below the rank of judge symbolize the inferior status previously accorded the juvenile court. Additionally, even the judges who hear juvenile matters in some States are not trained attorneys. But juvenile law is growing in complexity and there is a developing appellate court concern that only judges who have law degrees be empowered to constrain freedom. Along with these trends is a juvenile court movement to obtain a parity of status with general trial courts. All of these factors compel the direction that only judges hear all formal aspects of the juvenile case where freedom may be restricted or constrained.

Moreover, although the family court judge's formal participation comes at the middle of the family-related legal process, he exerts a powerful influence over all stages of the process that precede and follow this formal participation. Many judicial decisions provide guidelines for police, family caseworkers, probation officers, prosecutors, defense counsel, and others. The practice of delegating judicial decisionmaking processes to quasi-judicial personnel diminishes the effects of these judicial guidelines and requires critical decisions of personnel who are less accountable for their performance.

In implementing this standard, each State should insure that quasi-judicial personnel currently presiding over family or juvenile courts are replaced by an adequate number of additional judges, and that the old system is phased out in such a way as not to disrupt the judicial system.

References

1. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Re-*

port: The Courts. Washington, D.C.: Government Printing Office, 1967.

2. Rubin, Ted, and Smith, Jack F. "The Future of the Juvenile Court: Implications for Correctional Manpower and Training," *Juvenile Court Judges Journal*, Vol. 19, No. 3 (Fall 1968).

3. U.S. Department of Health, Education, and Welfare; Welfare Administration, Children's Bureau. *Standards for Juvenile and Family Courts*. Washington, D.C.: Government Printing Office, 1966.

Related Standards

The following standards may be applicable in implementing Standard 8.3:

8.4 Family Court Judges
9.5 Waiver and Transfer
12.1 Case Processing Time Frames
12.4 Juvenile's Initial Appearance in Court
12.11 Detention Hearings
13.2 Acceptance of an Admission to a Delinquency Petition
13.3 Withdrawal of Admissions
13.4 Contested Adjudications
13.8 Appeals
14.7 Formal Dispositional Hearing
14.21 Modification of Dispositional Orders
17.3 Interim Use of Other Judicial Officers

Standard 8.4

Family Court Judges

Family court judges should be lawyers who possess a keen and demonstrated interest in the needs and problems of children and families. Service in the family court should be a permanent assignment. Family court judges should participate in professional training programs.

Commentary

Qualifications in addition to those applicable to all trial court judges are needed for trial judges who will be handling the specialized cases for juvenile and family matters. The family court judge should be keenly interested in the problems of children and families and be especially sensitive to their respective legal rights. He or she should be aware of the contribution of other fields such as psychiatry, psychology, and social work. It is particularly important that he or she be familar with local minority groups and the influence of cultural values on family behavior and child rearing. The family court judge has, by virtue of the office, a prominent leadership opportunity in the community in terms of developing services for children and families. He or she should be willing to assume this responsibility.

The family court judge needs a good working knowledge of the juvenile justice system, the civil systems for domestic relations and commitments, and the State and local programs for families. The specialized skills that make a good family court judge cannot be learned in a short period of time. It may take some time initially to become completely familiar with the judicial responsibilities in this specialized area, more time to polish special skills, and still more time to begin formulating and implementing needed improvements. It seems imperative, therefore, that the assignment to the family court be an ongoing assignment for the tenure of that judge. However, provisions should, of course, be made to remove judges who are unsuited to preside over the family court. Thus, these judges should be subject to the same standards of discipline and removal as other trial court judges. In addition, family court judges should be permitted to be reassigned to another division of the trial court if they so desire.

Education and Training

It is imperative that the judges of the family court be properly educated and competently trained. All family court judges should attend professional training programs, both before and after their ascension to the bench. (See Standard 17.2, Training and Compensation of Judges.)

References

1. Garff, Regnal W. *Handbook for New Juvenile Court Judges*. Reno, Nev.: National Council of Juvenile Court Judges, 1973.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

3. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Court Organization and Administration* (Ted Rubin, Reporter; tentative draft, 1975).

4. U.S. Department of Health, Education and Welfare, Welfare Administration, Children's Bureau. *Standards for Juvenile and Family Courts*. Washington, D.C.: Government Printing Office, 1966.

Related Standards

The following standards may be applicable in implementing Standard 8.4:

8.1 Level and Position of Court Handling Juvenile Matters
8.2 Family Court Structure
8.5 Supervising Judge
15.12 Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System
17.1 Selection of Judges
17.2 Training and Compensation of Judges
18.1 The Court's Relationship With Law Enforcement Agencies
18.2 The Court's Relationship With Probation Services
18.3 The Court's Relationship With Public and Private Social Service Agencies
18.4 The Court's Relationship With the Public

Standard 8.5

Supervising Judge

Where the presiding judge of the general trial court determines the need for a supervising judge of the family court division, the family court judges should be requested to submit two names to the presiding judge from whom the designation shall then be made.

The individual designated supervising judge of the family court should then serve for a term of 2 years with reappointment being permitted for one additional 1-year term.

The criteria for appointment, duties, and responsibilities of the supervising judge should be established by a written court policy.

Commentary

The need for a supervising judge of the family court division is essentially an administrative decision based on a number of factors. Many of these factors cannot be translated into a single formula to be applied nationally. Thus, this standard allows the initial decision to fall within the purview of the discretionary powers of the trial court's presiding judge.

Once a decision is made to designate such a position, the standard combines the most desirable aspects of democratic decisionmaking with the need for centralized authority. The judges of the family division should submit the names of two of their peers to the presiding judge and he or she should make the appointment from those two individuals. This should lead to an administrative environment compatible with the interests of all concerned.

The standard directs that written court policies be developed. The policies should express the criteria for appointment, duties, and responsibilities of the supervising judge of the family court. Criteria for appointment should stress administrative ability and deemphasize considerations such as seniority. For example, a court may wish to stipulate that in no instance should seniority be the controlling factor in selecting a supervising judge. Instead, the court might direct that selection criteria should focus on interest in assuming the position, demonstrated administrative competency, and continuing commitment to improving the administration of justice.

A policy directive on duties and responsibilities could include the following: (1) coordination with the presiding judge of the general trial court in order to assure consistency and coherence with all general trial court rules, policies, and procedures; (2) working closely with psychiatrists, social service personnel, and representatives of other agencies to assure the continuous development of new treatment and dispositional alternatives in the context of juvenile- and family-law cases; and (3) actively representing the interests of the family court before executive, legislative, and community groups through public information and community relations.

The tenure of the presiding judge is also an important consideration addressed by this standard. If this position is to provide some continuity in the development of the court's policies and procedures, a judge should be allowed to serve initially for more than 1 year. Because many important rule changes take time to develop and implement, in certain instances a tenure of 3 years may be desirable. To go beyond a maximum of 3 years, however, raises the specter of one-man-rule—the absence of sharing responsibilities by other judges.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

2. American Bar Association. *The Improvement of the Administration of Justice*. New York: American Bar Association, 1971.

Related Standards

The following standards may be applicable in implementing Standard 8.5:

8.4 Family Court Judges
17.1 Selection of Judges
17.2 Training and Compensation of Judges

Standard 8.6

Family Court Rules

Comprehensive rules governing family court practice and procedure should be adopted and published to insure regularity and promote effciency in family court proceedings. The rules should provide in detail for pretrial discovery procedures appropriate for family court proceedings.

Commentary

Detailed guidance from rules on family court practice and procedure are necessary if the bench and bar are to provide the fundamental fairness required of family court proceedings by the *Gault* case. Not all jurisdictions now meet this need. Juvenile or family court acts, even if quite detailed, typically do not provide adequate procedural guidance on such matters as pleading, discovery, and motion practice, for example. Many jurisdictions use civil or criminal rules in an attempt to fill these procedural gaps. But family court business differs significantly from civil and criminal business, and attempts to apply rules designed for the latter systems to family court processes may result in more confusion than clarity.

Publication of family court rules and forms should promote uniformity, certainty, and efficiency in each jurisdiction. In jurisdictions lacking such rules, individual judges may enjoy excessive discretion to decide what procedures will apply in their own court rooms. And because in such jurisdictions access to court procedures is confined to lawyers who are family court regulars, the family court bar may tend to be smaller than is desirable. By making family court practice more accessible to the bar, therefore, published rules may increase the availability of legal counsel to clients needing this specialized area of practice.

The standard recommends that jurisdictions adopt comprehensive rules governing family court practice and procedure. This has been done in States such as Colorado, Minnesota, and New Mexico, and in the District of Columbia. Separate rules for delinquency, Families With Service Needs and Endangered Child cases may be desirable to deal with the unique problems arising in each category of jurisdiction. For added guidance, official forms illustrating implementation of the rules might also be promulgated. This has been done, for example, in New Mexico and Minnesota. Official forms serve to focus attention on the essential elements of particular procedural provisions.

Discovery

The standard's call for detailed rules on the subject of preadjudicatory discovery procedures reflects the concerns about the confusion that seems to exist in many jurisdictions regarding the proper approach to this important issue. In general, adequate discovery mechanisms permit the parties to discover the factual and legal issues before trial. Aware of the evidence that each side intends to offer at trial, the parties can resolve the issues administratively, without the need for further court proceedings. Pretrial discovery also facilitates the efficient conduct of pretrial motions and of the trial itself, by enabling the parties to foresee and prepare adequately to meet the issues actually in dispute.

But, achieving these advantages of discovery in family court proceedings has been handicapped by widespread uncertainty as to the applicable law.

> Uncertainty is caused by a paucity of statutory guidance, ambiguity in existing statutes, the non-constitutional stature of the right to discovery and the unique nature of juvenile court proceedings. [National Juvenile Law Center, *Law and Tactics in Juvenile Cases* (2d ed. 1974), 213.]

The unique nature of juvenile court proceedings is primarily responsible for the existing confusion. Well-developed, liberal discovery rules exist in every jurisdiction to govern civil proceedings; criminal discovery is governed by a different, more restrictive set of rules. But faced with issues such as whether a delinquency respondent has the right before the adjudicatory hearing to discover names and addresses of witnesses for the petitioner, or to take their depositions, courts have difficulty deciding whether to apply the rules of civil discovery, the rules of criminal discovery, or some unique amalgam of the two. In this task the bench and bar have had insufficient guidance from legislation or court rules. Similar difficulties hinder the conduct of Families With Service Needs and Endangered Child proceedings.

Although some relief is achieved by rules that simply designate either civil or criminal discovery rules as applicable to each type of family court proceeding, the report indicates that the unique character of family court proceedings requires a more discriminating approach. Discovery rules should address the specific problems that arise in family court proceedings. For example, whether the respondent in delinquency proceedings should be granted advance discovery of social reports used by intake staff or prepared for a transfer or dispositional hearing is an issue that deserves special consideration. So does the question of whether or under what circumstances the juvenile or parent should have access to discovered material such as social or psychological reports delivered to respondent's counsel. Also important is whether noncourt agencies, such as the schools or welfare departments, should have access to social records regarding the juvenile or his or her family.

In drafting suitable rules to govern family court discovery, the States may wish to consider the standards on criminal discovery recently promulgated by both the American Bar Association (ABA) and the National Advisory Commission on Criminal Justice Standards and Goals. Both groups advocate liberalizing criminal discovery to require greater disclosure by both the prosecution and the defense to each other, without infringing upon the defendant's constitutional privilege against self-incrimination. Significant, too, are the standards developed by the Institute of Judicial Administration/ABA Juvenile Justice Standards Project, which adopt and broaden the ABA criminal discovery standards for family court proceedings. And several State jurisdictions have developed discovery rules especially tailored to these proceedings, which merit evaluation.

References

1. Institute of Judicial Administration/American Bar Association. Project on Standards for Criminal Justice. *Standards Relating to Discovery and Procedure Before Trial* (approved draft). New York: Institute of Judicial Administration, 1970.
2. Besharov, Douglas J. *Juvenile Justice Advocacy*. New York: Practicing Law Institute, 1974.
3. Colorado Rules of Juvenile Procedure.
4. District of Columbia Rules—Juvenile Proceedings.
5. Institute of Judicial Administration/American Bar Association. Juvenile Justice Standards Project. *Standards on Pretrial Court Proceedings* (final draft). New York: Institute of Judicial Administration, 1975.
6. *In re Gault*, 387 U.S. 1 (1967).
7. Minnesota Rules for Juvenile Proceedings.
8. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.
9. National Council on Crime and Delinquency. *Model Rules for Juvenile Courts*. New York: National Council on Crime and Delinquency, 1969.
10. National Juvenile Law Center. *Law and Tactics in Juvenile Cases*. St. Louis, Mo.: St. Louis University School of Law (2nd edition) 1974.
11. New Mexico Children's Court Rules (1975).
12. Note, "Discovery Rights in Juvenile Proceedings," *University of San Francisco Law Review*. Vol. 7 (1973).
13. Ohio Rules of Juvenile Procedure.

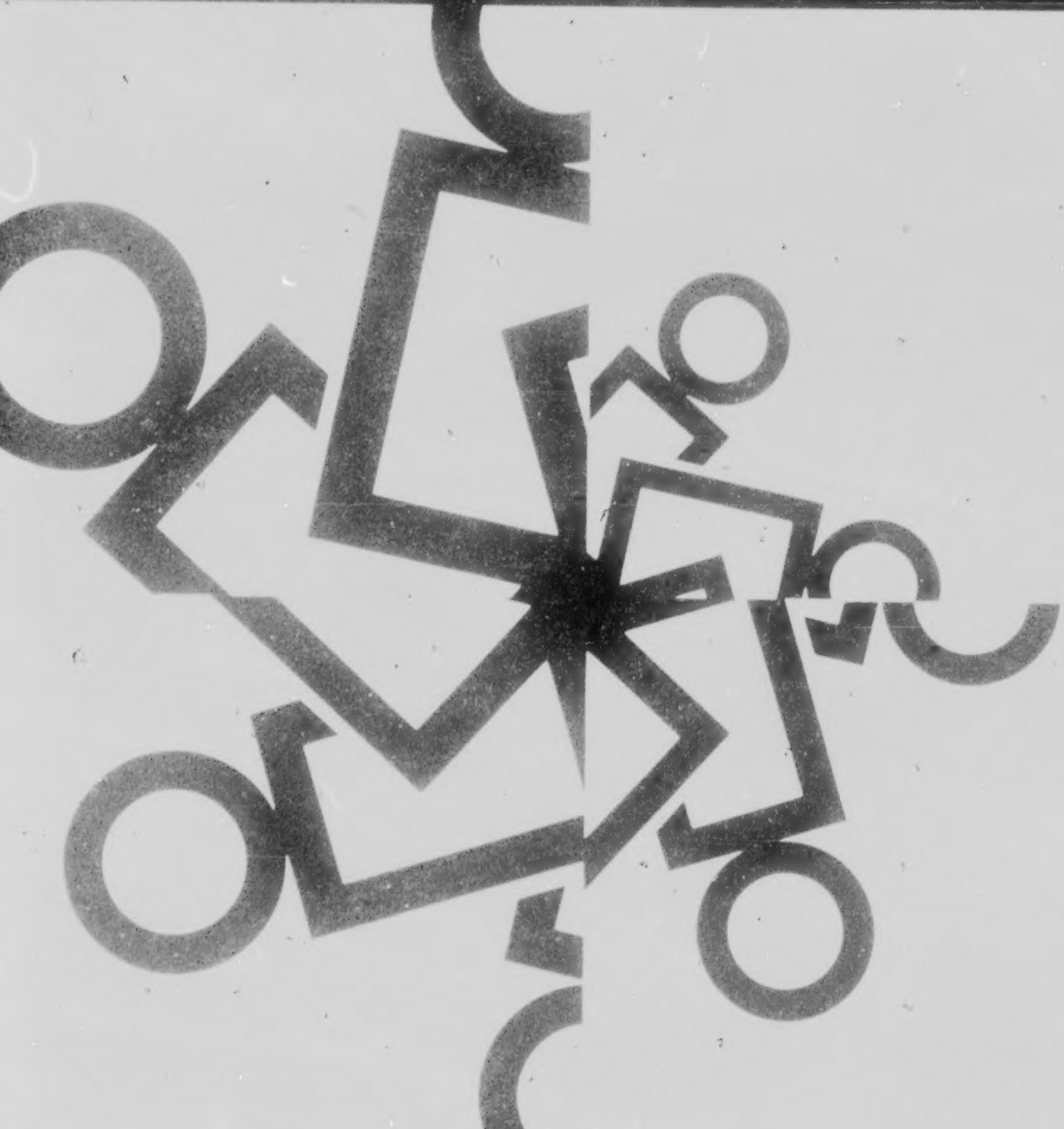
Related Standards

The following standards may be applicable in implementing Standard 8.6:

8.2 Family Court Structure
9.6 Venue
12.1 Case Processing Time Frames
12.2 Motion Practice
15.7 Presence of Family Court Prosecutor at Family Court Proceedings
15.14 Form and Content of Complaint
15.15 Form and Content of Petition Filed With Family Court by Family Court Prosecutor
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court

Chapter 9

Delinquency: Jurisdiction—Scope of Authority



INTRODUCTION

The rising incidence of antisocial behavior by juveniles—from 20 percent of the arrests for serious crimes in 1965 to nearly 50 percent of such arrests a decade later—has focused society's attention on the judicial processing of delinquency cases. The court structure dealing with juvenile matters is increasingly recognized as a major component of the total crime prevention and crime control effort.

The line between delinquency jurisdiction and adult criminal proceedings, however, retains its validity. The growing emphasis on procedural regularity and due process of law in delinquency cases cannot be equated with a retreat from the philosophy that underlies the juvenile system of relying heavily on social and psychological findings for both diagnosis and treatment. The delinquency proceeding does not resemble the criminal trial in all particulars. The protective and rehabilitative orientation is still paramount in delinquency proceedings despite recognition that the judicial processing of juveniles has a deterrent function. Thus, delinquency jurisdiction cannot properly be viewed as a mere subset of the adult criminal process. It remains part of a different system oriented specifically to juveniles and emphasizes the objectives of treatment and rehabilitation. Therefore, the report recommends that delinquency cases be handled by the family court (see Chapter 8).

Within the family court structure, however, delinquency jurisdiction should be distinguished from that court's authority over Families With Service Needs and Endangered (Neglected or Abused) Children. The standards in this chapter focus on the scope and the limits of family court juruisdiction in delinquency matters.

Delinquency is defined as any law violation that, if committed by adults, would constitute a violation of Federal, State, or local criminal law (see Standard 9.1). This definition differs from that employed in many States. At present, 26 States regard the actions of status offenders as delinquent behavior. We believe this approach is ill-considered. The report recommends that the family court's jurisdiction over cases involving law violations that would not be crimes if committed by adults (for example, repeated truancy) come under the rubric of Families With Service Needs. The approach to Families With Service Needs cases is premised on a different philosophy than the handling of delinquency matters and requires different procedures (see Chapter 10).

This narrowing of the family court's delinquency jurisdiction so that it is coextensive with its authority over juvenile criminal behavior raises a number of issues. For example, what age range should be considered under this jurisdiction? Should all juveniles within this age group be tried by the family court? Four standards in this chapter address these issues. In keeping with the rehabilitative function of delinquency proceedings and the underlying philosophy of treating juveniles differently from adults, the standards focus principally on the maturation process. On the one hand, there is obviously little point in adjudicating a minor delinquent if he or she is too young or immature to understand the antisocial nature of his or her behavior. On the other hand, if he or she has attained the maturity of an adult, it is pointless to invoke special protections designed for those less sophisticated or less culpable.

In light of these considerations, the standards propose a minimum age of 10 and a maximum age of 18 (see Standards 9.2 and 9.3). They further direct that the relevant point of inquiry about a juvenile's age is the time of commission of the offense, rather than the time of apprehension or adjudication (see Standard 9.4). It is recognized that chronological age parallels the maturation process only approximately and that the selection of ages 10 and 18 is unavoidably somewhat arbitrary. Nonetheless, existing literature provides some support for these choices, and the advantages of having clear-cut guidelines outweigh the difficulties involved in making judgments on an individual basis about the sophistication or culpability of minors.

However, the juvenile system has long recognized that some minors within this age range are, in fact, indistinguishable from their older counterparts. Thus, most States authorize existing juvenile courts to waive jurisdiction over particular cases and transfer them for trial in adult criminal courts. This report endorses the concept of waiver, but recommends a series of restrictions to avoid abuses of this power. Waiver is appropriate only for juveniles at least 16 years of age, who commit acts of a heinous or aggravated character or who engage in a pattern of repeated delinquent behavior. Family courts should establish guidelines for waiver decisions and should authorize a waiver only after a full hearing in which it is determined that the juvenile is beyond rehabilitation by the family court (see Standard 9.5).

This chapter's recommendations on delinquency jurisdiction address two additional topics: venue in delinquency cases and the family court's jurisdiction over traffic offenses. The standards recommend that venue for adjudicating a delinquent act should attach to the family court in that jurisdiction where the offense was committed or, upon motion, to that jurisdiction where the juvenile resides (see Standard 9.6). As to traffic offenders, the standards suggest limiting family court jurisdiction to cases involving juveniles not old enough to be licensed to drive and cases of major traffic offenses committed by juveniles (see Standard 9.7).

References

1. Davis, Samuel. *Rights of Juveniles: The Juvenile Justice System*. New York: Clark Boardman Company, Ltd., 1974.

2. Fox, Sanford. *The Law of Juvenile Courts in a Nutshell*. St. Paul, Minn.: West Publishing Company, 1971.

3. Institute for Judicial Administration/American Bar Association. *Overview of Juvenile Justice Standards Project*. (Unpublished mimeograph; April 1975).

4. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

6. Sheridan, William, and Beaser, Herbert. *Model Acts for Family Courts and State-Local Children's Programs*. Washington, D.C.: Government Printing Office, 1967. (Department of Health, Education, and Welfare Publication No. OHD/OYD 75-26041).

Standard 9.1

Definition of Delinquency

Family court delinquency jurisdiction should be exercised only for acts that would be violations of Federal or State criminal law or of local ordinance if committed by adults.

Commentary

Because delinquent acts form one of the most important bases for family court jurisdiction, it is important to clearly define what is to be considered a delinquent act.

It is common in State codes for juvenile delinquency to be defined in broad, vague terms. Adult criminal codes formulated on such a basis would be constitutionally unacceptable. Traditional criminal jurisprudence forbids penal statutes that are vague and overly broad. This standard is aimed at eliminating the injustice of allowing criminal sanction for behavior violating nonspecific codes of conduct.

State codes generally provide that juveniles who commit acts that violate Federal, State, or local criminal laws are subject to the jurisdiction of the family court. However, many States extend the definition of the term delinquency well beyond these criteria. For example, in 26 States, status offenders are classified as delinquents and are not differentiated from juveniles who have violated adult criminal codes. Status offenders' behavior, although of concern to the family court, is not of the nature of acts for which the criminal law has traditionally reserved punishment. Yet in many jurisdictions the dispositional alternatives are the same. In only 18 States do the State codes place restrictions on dispositional alternatives for status offenders.

In addition, status offenders' behavior is often vaguely defined by terms such as unruly children, incorrigibles, and beyond control children. Thus, not only do some State definitions of delinquency go well beyond the boundaries of behavior that is criminal if committed by an adult, the definition of what constitutes delinquent behavior is unclear. In the States where these conditions exist, they should be changed.

In defining delinquency, few States make a distinctions between misdemeanors and felonies, between crimes punishable by prison sentences and crimes punishable by fines or forfeitures, or between violators of the criminal code and violators of regulatory statutes to which criminal penalties are attached. Because of this, serious criminal behavior and minor infractions may both be labeled delinquency. This standard authorizes delinquency jurisdiction only over acts that violate a Federal or State criminal law or local ordinance. But States, wherever possible, are encouraged to go even farther than the standard recommends and make some of the distinctions outlined above. As each State's statutory scheme is different, this is the only way to assure that a juvenile does not receive the label delinquent for a minor law infraction or a violation of a statute intended only to regulate.

References

1. *Jones* v. *Commonwealth*, 185 Va. 335, 38 S.E.2d 444 (1946).

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Juvenile Crime* (John M. Junker, Reporter; tentative draft 1975).

3. *Krell* v. *Sanders*, 168 Neb. 458, 96 N.S.2d 218 (1959).

4. Levin, Mark M. and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. University of Michigan, Ann Arbor: National Assessment of Juvenile Corrections, 1974.

Related Standards

The following standards may be applicable in implementing Standard 9.1:

8.2	Family Court Structure
9.2	Minimum Age for Family Court Delinquency Jurisdiction
9.3	Maximum Age for Family Court Adjudicative Jurisdiction
9.4	Time at Which Jurisdiction Attaches
9.5	Waiver and Transfer
9.7	Traffic Offenses
10.8	"Delinquent Acts" by Child Younger Than 10
11.15	Delinquent Acts As a Result of Parental Encouragement or Approval
12.5	Petition and Summons
13.1	Plea Negotiation Prohibited
13.2	Acceptance of an Admission to a Delinquency Petition
13.5	Adjudication of Delinquency—Standard of Proof
14.9	Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13	Classes of Delinquent Acts for Dispositional Purposes
15.14	Form and Content of Complaint
15.15	Form and Content of Petition Filed With Family Court by Family Court Prosecutor
16.1	Juvenile's Right to Counsel

Standard 9.2

Minimum Age for Family Court Delinquency Jurisdiction

The minimum age for exercise of family court delinquency jurisdiction over a juvenile who is charged with delinquent conduct should be 10 years of age.

Commentary

The standard for minimum age is intended to apply only to family court delinquency jurisdiction. It should not be interpreted to preclude family court intervention through Endangered Child or Families With Service Needs jurisdiction where a child younger than 10 commits what would be a delinquent act for an older child and where the prerequisites for these jurisdictional bases are met.

There seems little purpose in authorizing family court delinquency jurisdiction over juveniles who are too young and immature to understand that engaging in certain behavior constitutes a criminal offense. However, there is no established chronological age at which juveniles become sufficiently mature so that family court jurisdiction should, without doubt, be authorized thereafter. Hence, the selection of a minimum age is essentially an arbitrary decision.

Ideally, the selection of a minimum age should be based upon the maturation level of juveniles so that those juveniles who are sufficiently mature to be held responsible for their actions will be brought within the family court as delinquents and those juveniles who lack such maturity will not. Unfortunately, there is little, if any, evidence to support the selection of one age level rather than another for this purpose. Available statistics do indicate, however, that there is a marked decline in the arrest rate of juveniles younger than age 10. Although the statistics do not differentiate between juveniles of various age levels below 10, the selection of age 10 as a minimum age finds some support in these data. In addition, of the six States that have established a minimum age for family court jurisdiction, four have selected 10 as the minimum age. For these reasons, the selection of 10 as the minimum age for family court jurisdiction is recommended at the present time.

Only six State codes have established minimum age provisions for juvenile court jurisdiction over delinquent conduct. This may result from an assumption that common law presumptions regarding the competency of minors to commit crimes are still viable and controlling. The common law irrefutably presumed that children younger than 7 were simply incompetent to commit crimes and could therefore not be charged with criminal offenses. Children between the ages of 7 and 14 were also presumed to be incompetent to commit crimes. But this presumption was permitted to be rebutted by evidence of the child's ability to understand and be responsible for the consequences of his or her actions. Young persons older than 14 were treated as adults by the common law as to their competency to commit crimes. However, these common law presumptions were established long before the creation of juvenile courts, and their continued viability is doubtful.

An additional reason for few State codes containing a minimum age provision is the expectation that so few offenses will be committed by very young children that the establishment of such a provision is unnecessary. Arrest statistics of juveniles younger than 10 years of age indicate that, in fact, few such juveniles commit delinquent acts. Nevertheless, the available statistics do indicate that a sufficiently significant number of juveniles younger than 10 may be brought before the family court and charged with the commission of delinquent acts. The creation of a standard to remove such juveniles from the family court's delinquency jurisdiction is therefore most appropriate.

References

1. Fox, Sanford J. *The Law of Juvenile Courts in a Nutshell.* St. Paul, Minn. West Publishing Company, 1971.

2. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* University of Michigan, Ann Arbor: National Assessment of Juvenile Corrections, 1974.

3. U.S. National Criminal Justice Information and Statistics Service. *Children in Custody.* Washington, D.C.: Government Printing Office, 1971.

Related Standards

The following standards may be applicable in implementing Standard 9.2:

9.1 Definition of Delinquency
9.4 Time at Which Jurisdiction Attaches
9.7 Traffic Offenses
10.8 "Delinquent Acts" by Child Younger Than 10
11.15 Delinquent Acts as a Result of Parental Encouragement or Approval
16.12 Communication with Youthful Clients and Witnesses

Standard 9.3

Maximum Age for Family Court Adjudicative Jurisdiction

The family court should have adjudicative jurisdiction over a juvenile only until the juvenile reaches the age of 18.

Commentary

By definition, most family or juvenile courts in the United States are authorized to exercise adjudicative jurisdiction over individuals until they reach a certain age. Beyond that age, the individual is subject to the regular criminal and civil court systems. However, the establishment of a maximum age provision for family court jurisdiction is an essentially arbitrary decision. The family court is designed to respond to the needs of young persons who have not yet achieved full maturity. For that reason, the maximum age for family court jurisdiction should be consistent with the maturation process of adolescents.

Unfortunately, levels of maturity do not necessarily correspond to any particular chronological age so that, at best, maximum age provisions can only approximate the maturity levels of the young persons to whom the provisions apply. For that reason, it might be argued that jurisdiction should be determined from professional input regarding the maturity of individual defendants. However, because professional opinions vary and because of the absence of a precise scientific approach, the setting of an arbitrary cutoff point based on chronological age appears to be the best policy.

A majority of State statutes provide for adjudicative family court jurisdiction to extend until age 18. This age level roughly corresponds to the point at which young persons complete their secondary education and begin to break ties with the family unit. It also corresponds to the latest statutory provisions for the age of majority for other purposes in many States. According to the Children's Bureau of HEW, "Successful experiences in these [family] courts over many years has established the soundness of the age level of jurisdiction." (*Standards for Juvenile and Family Courts,* 1966, p. 36.)

Some motivation exists for lowering the maximum age below 18, either for all juveniles or only for those who have been charged with committing serious offenses. Apparently this stems from a concern that the family court will be unable to handle effectively some serious offenders who are younger than 18 years of age. For such cases, however, it is recommended that the family court be permitted to transfer the juvenile to the adult criminal court after following certain procedures rather than automatically excluding all such cases from the family court in the first instance. Placing the maximum age level at 18, but permitting the family court to transfer certain cases to the adult criminal courts, has the advantage of allowing the family court to make refined decisions based upon the specific circumstances of the particular case.

References

1. Davis, Samuel M. *Rights of Juveniles: The Juvenile Justice System*. New York: Clark Boardman Company, Ltd. 1974.

2. Kobetz, Richard W., and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Md.: International Association of Chiefs of Police, Inc., 1973.

3. Rubin, Sol. *A Model Juvenile Court Statute*, unpublished, 1973.

4. U.S. Department of Health, Education, and Welfare; Welfare Administration, Children's Bureau. *Standards for Juvenile and Family Courts*. Washington, D.C.: Government Printing Office, 1966.

Related Standards

The following standards may be applicable in implementing Standard 9.3:

9.1 Definition of Delinquency
9.4 Time at Which Jurisdiction Attaches
9.5 Waiver and Transfer
9.7 Traffic Offenses
14.2 Duration of Dispositional Authority
14.4 Selection of Least Restrictive Alternative

Standard 9.4

Time at Which Jurisdiction Attaches

Subject to any applicable statute of limitations, the jurisdiction of the family court should be determined by the age of the juvenile at the time of the delinquent act and not by the juvenile's age at the time of apprehension or adjudication.

Commentary

Most State codes provide that juvenile or family court jurisdiction attaches at the time of the offense. Under these laws, a juvenile who commits an offense before reaching age 18 is still subject to juvenile or family court jurisdiction even if he has reached age 18 at the time of apprehension or adjudication. The model acts uniformly recommend this position.

Authorizing the family court to adjudicate a juvenile who committed a delinquent act prior to age 18 but who has passed age 18 is not as anomolous as it may seem. Most State codes now authorize family court dispositional jurisdiction to extend until the juvenile reaches age 21. Hence, the mere fact that a juvenile has passed age 18 does not mean that the family court should be completely precluded from exercising any authority over the juvenile. As long as the offense occurred while the juvenile was of an age that authorized the exercise of family court jurisdiction, the maturity level of the juvenile was presumably such at the time of committing the offense that the family court should have the first and principal opportunity to exercise jurisdiction and enter an appropriate dispositional order.

Nevertheless, it should be acknowledged that an appreciable number of State codes take a contrary position. However, the task force notes that if the age of the juvenile at the time of apprehension or adjudication governs the family court's jurisdiction, the possibility exists that police may delay apprehension and prosecutors may delay proceeding against a juvenile who is close to age 18 until the juvenile has passed that maximum age and will then prosecute the juvenile in the adult criminal court. This permits an exercise of police and prosecutorial discretion that is unintended by the statutes. Instead, the family court should be authorized to transfer juveniles to the adult criminal courts only if it finds that it cannot provide adequate treatment options in the particular case. But it should have the authority to retain jurisdiction over all other cases if the offense was committed before age 18.

References

1. *Hemphill* vs. *Johnson*, 287 N.W.2d 828 (Ohio App. 1972).

2. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* University of Michigan, Ann Arbor: National Assessment of Juvenile Corrections, 1974.

3. National Conference of Commissioners on Uniform State Laws. *Juvenile Court Act.* Chicago, Ill.: National Conference of Commissioners on Uniform State Laws, 1968.

4. National Council on Crime and Delinquency. *Standard Juvenile Court Act.* New York: National Council on Crime and Delinquency, 1959.

5. Sheridan, William H., and Beaser, Herbert Wilton. *Model Acts for Family and State-Local Children's Programs.* Washington, D.C.: Government Printing Office, 1974 (Department of Health, Education, and Welfare Publication No. OHO–OYD 75–26041).

6. *State* v. *Buchanan,* 489 P.2d 744 (Wash. 1971).

7. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Recommended Standards and Commentary on Waiver of Juvenile Court Jurisdiction* (Charles H. Whitebread, Reporter; tentative draft, 1975).

Related Standards

The following standards may be applicable in implementing Standard 9.4:

9.1 Definition of Delinquency
9.2 Minimum Age for Family Court Delinquency Jurisdiction
9.3 Maximum Age for Family Court Adjudicative Jurisdiction
9.5 Waiver and Transfer

Standard 9.5

Waiver and Transfer

The family court should have the authority to waive jurisdiction and transfer a juvenile for trial in adult criminal court if:

1. The juvenile is charged with a delinquent act as defined in Standard 9.1.

2. The juvenile was 16 years or older at the time of the alleged commission of the delinquent act.

3. The alleged delinquent act is:

a. aggravated or heinous in nature or

b. part of a pattern of repeated delinquent acts.

4. There is probable cause to believe the juvenile committed acts that are to be the subject of the adult criminal proceedings if waiver and transfer are approved.

5. The juvenile is not amenable, by virtue of his maturity, criminal sophistication, or past experience in the juvenile justice system, to services provided through the family court.

6. The juvenile has been given a waiver and transfer hearing that comports with due process including but not limited to the right to counsel and a decision rendered in accord with specific criteria promulgated by either the court or the legislature. The *Kent* v. *United States*, 383 U.S. 541 (1966), criteria should be the minimum specific criteria on which these decisions are based.

Commentary

Waiver of juvenile or family court jurisdiction and transfer of juveniles to adult criminal courts have been described as a necessary evil. Because of the great variation in the levels of maturity among juveniles, transfer procedures are necessary to remove from the court's jurisdiction those juveniles who are deemed to be completely inappropriate for handling by the family court. The principal reason for authorizing the family court to transfer certain juveniles to adult criminal courts is a very practical one. There is evidence that if family courts are not authorized to transfer some juveniles, there will be pressure to reduce the maximum age for family court delinquency jurisdiction below age 18. This is the situation in New York and Vermont. In both States no transfer is permitted and the maximum age for family court jurisdiction is 16.

Waiver and transfer practices can be abused and therefore should be governed by procedures and restrictions that will prevent misuse of authority. Six such restrictions are articulated in this standard.

First, waiver and transfer are only appropriate where the juvenile is charged with a delinquent act. Standard 9.1 (Definition of Delinquency) defines a delinquent act as one that would be a violation of

Federal or State criminal law or of local ordinance if committed by an adult.

Second, waiver and transfer should be restricted to persons 16 years or older. Setting a minimum age guards against transfer of younger children who require the special service and intervention philosophy of the family court even in the face of strong emotional community reaction to behavior. Many States have already concluded that the minimum age should be 16. At this age, it may be assumed that the juvenile has culpability which, when combined with other factors, may lead to a conclusion that handling by the family court would be unproductive. Although no specific age limitation will assure that such culpability exists, the younger the juvenile who is charged with committing a serious offense the less likely it is that he or she will be sufficiently culpable to make transfer an appropriate option.

Third, it is recommended that waiver and transfer be limited to cases where the alleged delinquent act is aggravated or heinous in nature or part of a pattern of repeated delinquent acts. A number of States that permit waiver and transfer require that the juvenile be charged with a felony. This requirement recognizes that juveniles charged with lesser offenses are likely to be amenable to services available through the family court. However, the designation of felony standing alone is not meaningful. There is little uniformity among the States in the designation of felonies as opposed to misdemeanors and, as a result, it is the seriousness of the offense itself or its repeated nature that should be considered as authorizing transfer of a juvenile.

Thus, the report rejects automatic waiver and transfer of persons 16 or older who commit felonies. Even though they have committed serious offenses, some juveniles are far more in need of special services than deterrence or punishment. The family court is in a better position to handle these cases. Automatic waiver and transfer would allow the prosecutor to select between the family court and the adult criminal court by deciding what charge to bring. As a result, any procedures established to control the exercise of the waiver and transfer decision in the family court could be avoided by a prosecutor who followed such a practice.

Fourth, the standard requires the family court to determine whether there is probable cause to believe the juvenile committed the particular offense alleged before waiving jurisdiction and transferring the juvenile to adult court. Waiver and transfer to adult court are preadjudicatory dispositions of substantial significance because the consequences of becoming involved in the criminal justice system are potentially quite severe. The length and conditions of incarceration can be harsh. The juvenile may be exposed to adult offenders from whom he or she can learn more serious criminal behavior. Juries are sometimes informed that the youthful defendant in the case they are deciding was deemed so bad as to be unamenable to family court handling. Moreover, the fact of waiver and transfer often has a profound effect on the sentencing decision. Thus, the family court must at least find ". . . an apparent state of facts . . . which would induce a reasonably intelligent and prudent man to believe . . . that the accused person has committed the crime charged. . . ." (*Black's Law Dictionary, 4 ed.*)

Fifth, the family court must find that the juvenile is not amenable to the services provided through the family court. The key question in any waiver proceeding is whether a family court disposition could be effective with the particular juvenile who is being considered for transfer. Obviously, if the family court could not provide a disposition from which some positive results could be expected, transfer to an adult court could be considered appropriate. On the other hand, if the juvenile could benfit from family court handling, the transfer power of the court should not be exercised. The factors the court should consider in making this determination are the juvenile's maturity, his or her criminal sophistication, and past experience in the juvenile justice system.

Finally, the family court must conduct a due process hearing to determine if waiver of family court jurisdiction and transfer to adult court is appropriate given the circumstances of the particular case. The hearing may be informal and need not conform to all the requirements of a criminal trial. It must, however, measure up to the essentials of due process and fair treatment. Thus, the juvenile is entitled to counsel, and the juvenile and his counsel are entitled to see the records that the court will rely upon in making its decision.

The 1967 President's Commission on Law Enforcement and Administration of Justice in its *Task Force Report: Juvenile Delinquency and Youth Crime* (page 25) states that transfer of juveniles from juvenile courts to adult criminal courts is often "not a scientific evaluation of whether the youth will respond successfully to a juvenile court disposition, but a front for society's insistence on retribution or social protection." In order to avoid this misuse of the transfer power, the State, through its courts or legislature, should set forth specific criteria to be considered in making the decision to waive family court jurisdiction and transfer the juvenile to adult court.

The Court in *Kent* v. *United States*, 383 U.S. 541 (1966), set forth in an appendix to its opinion a number of criteria that should be used as minimum guides to the State in setting its own criteria. They are:

1. The seriousness of the alleged offense and whether the protection of the community requires waiver;

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted;

4. The prosecutive merit of the complaint;

5. The desirability of trial and disposition of the offense in one court when the juvenile's associates in the alleged offense are adults who will be charged with crimes in the adult court;

6. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living; and

7. The record and previous history of the juvenile.

References

1. Black, Henry Campbell. *Black's Law Dictionary* (Revised Fourth Edition by the Publisher's Editorial Staff). St. Paul, Minn.: West Publishing Company, 1968.

2. Hayes, J. Ray, and Solway, Kenneth S. "The Role of Psychological Evaluation in Certification of Juveniles for Trial as Adults," *Houston Law Review*, Volume 19 (September 1971).

3. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Recommended Standard and Commentary on Waiver of Juvenile Court Jurisdiction* (Charles H. Whitebread, Reporter; tentative draft, 1975).

4. *Kent* v. *United States*, 383 U.S. 541 (1966).

5. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. University of Michigan, Ann Arbor: National Assessment of Juvenile Corrections, 1974.

6. National Juvenile Law Center. *Law and Tactics in Juvenile Cases*. St. Louis University School of Law, St. Louis, Mo.: National Juvenile Law Center, 1974.

7. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

8. Reiney, William C. "Problems of Age and Jurisdiction in the Juvenile Court," *Vanderbilt Law Review*, Volume 19 (December 1965).

Related Standards

The following standards may be applicable in implementing Standard 9.5:

9.1 Definition of Delinquency
9.3 Maximum Age for Family Court Adjudicative Jurisdiction
9.4 Time at Which Jurisdiction Attaches
14.1 Purpose of Dispositions
14.2 Duration of Dispositional Authority
16.1 Juvenile's Right to Counsel
18.4 The Court's Relationship With the Public

Standard 9.6

Venue

The family court that has jurisdiction within the city, county, or other political subdivision where the delinquent act was allegedly committed should be the court that adjudicates the act, unless, on the motion of the juvenile or the prosecution or on its own motion, the court decides to transfer the case to the jurisdiction of the juvenile's residence.

Commentary

Although there are exceptions in some States, the geographic jurisdiction of family courts generally extends only within a county or similar governmental subdivision. For juveniles who reside within the county in which they commit offenses, the local family court is obviously the most appropriate court to exercise original jurisdiction over the juvenile. However, a juvenile may reside in one county and commit an offense in another county. In such a case, two separate family courts may have jurisdiction over a juvenile.

The family court that has jurisdiction within the political subdivision where the delinquent act was committed should have original jurisdiction. But it should also have authority to transfer the juvenile to his or her place of residence in order to provide rehabilitative treatment in the juvenile's home environment. The desirability of transfer has been a significant guiding principle in many dispositional decisions. However, there are some important reasons why adjudication in the place of residence should not be made mandatory in cases where the offense took place in another location.

First of all, the sixth amendment to the U.S. Constitution requires that a defendant be tried in the jurisdiction "wherein the crime shall have been committed." If this is viewed as applying to family courts, it certainly would preclude transfer of a case from one State to another for purposes of adjudication. However, the sixth amendment policy considerations should be applied as well in the case where transfer is sought from one county to another within a State. Secondly, adjudication in the place of residence should not be made mandatory because the availability of witnesses or other considerations may make it necessary from the prosecution's standpoint to try the case where the offense occurred.

This standard allows the juvenile, the prosecution, or the court to make the motion to transfer the adjudicatory hearing to the place of the juvenile's residence. It is expected, however, that in acting on any such motion the court will exercise its discretion to avoid undue hardship to either the prosecution or the defense during the adjudication.

References

1. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* University of Michigan, Ann Arbor: National Assessment of Juvenile Corrections, 1974.

2. National Conference of Commissioners on Uniform State Laws. *Juvenile Court Act.* Chicago, Ill.: National Conference of Commissioners on Uniform State Laws, 1968.

3. Sheridan, William H., and Beaser, Herbert Wilton. *Model Acts for Family Courts and State-Local Children's Programs.* Washington, D.C.: Government Printing Office, 1974. (Department of Health, Education, and Welfare Publication No. OHO–OYD 75–26041).

Related Standards

The following standards may be applicable in implementing Standard 9.6:

9.1	Definition of Delinquency
9.4	Time at Which Jurisdiction Attaches
12.2	Motion Practice
18.1	The Court's Relationship With Law Enforcement Agencies
18.2	The Court's Relationship With Probation Services

Standard 9.7

Traffic Offenses

The family court's jurisdiction over traffic offenses should be limited to:

1. Traffic offenses committed by juveniles who are not old enough to be licensed to drive, and

2. Major traffic offenses committed by all juveniles. These offenses should include vehicular homicide, hit-and-run driving, and driving under the influence of alcohol or drugs.

All other traffic offenses committed by juveniles should be handled by the adult traffic court.

Commentary

Although present State codes vary widely regarding the handling of juvenile traffic offenses, this standard follows a current trend among authorities to remove many traffic offenses from the jurisdiction of the family court. For example, in 1959 the National Council on Crime and Delinquency's (NCCD) Standard Juvenile Court Act recommended that all juvenile traffic offenses be handled by the family court. But in a 1969 policy statement, *Juvenile Traffic Offenses*, NCCD revised its findings to recommend that minor traffic offenses committed by juveniles be handled by the traffic court established for adults.

There are three primary reasons for removing minor traffic offenses from the family court. First, minor traffic offenses should not necessarily be regarded as evidence of delinquency and of a need for rehabilitative treatment to the same extent as more serious delinquent acts. Hence, to handle minor traffic offenses in the same manner as serious juvenile offenses is inappropriate. Secondly, the administrative burden on the family court of handling all traffic offenses committed by juveniles, regardless of how minor they may be, is a heavy one. Releasing the family courts from the obligation to handle all such offenses should free the court to concentrate its energies and resources on more serious problems. Lastly, juveniles who are old enough to be licensed to drive are exercising an adult privilege and should be handled originally by adult courts.

It should be noted, however, that minor traffic offenses for adults are generally punishable by fines and jail for failure to pay fines. As minors cannot be placed in jails with adult offenders, traffic courts will be forced to find innovative ways to deal with this problem.

Some practitioners may argue that all juvenile traffic matters should be handled in the family court because it provides a better opportunity for specialized treatment and individual attention in each case. However, the resulting volume of traffic cases might tend to overload the court and reduce the opportunity for individualized treatment. Serious traffic offenses should be rare enough so that they would not overburden the family court to the same extent as would minor traffic offenses. Furthermore, the commission of a serious traffic offense by a juvenile may reasonably be viewed as indicating as much of a need for the rehabilitative attention of the family court as do the many other offenses over which the family court has jurisdiction. Finally, in the adult traffic court, the commission of a major traffic offense can often lead to such serious consequences as a jail term. Where the offender is a juvenile, family court jurisdiction over the offense would certainly seem more appropriate.

Similar considerations apply to traffic offenses by juveniles who are not old enough to have a license to drive. Again, the number of offenses involved will not be nearly as great as the number of minor traffic offenses committed by juveniles old enough to drive. In addition, the commission of such an offense by a juvenile who is not old enough to drive can reasonably be considered relatively serious regardless of whether the actual offense is major or minor. Finally, for such young offenders, handling by the adult traffic court may be entirely inappropriate in that the sentencing alternatives available to that court are simply not designed to be applied to very young offenders.

References

1. Fox, Sanford J. *The Law of Juvenile Courts in a Nutshell*. St. Paul, Minn.: West Publishing Company, 1971.

2. National Conference of Commissioners on Uniform State Laws. *Juvenile Court Act*. Chicago, Ill.: National Conference of Commissioners on Uniform State Laws, 1968.

3. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. Sheridan, William H., and Beaser, Herbert Wilton. *Model Acts for Family and State-Local Children's Programs*. Washington, D.C.: U.S. Government Printing Office, 1974. (Department of Health, Education, and Welfare Publication No. OHO–OYD 75–26041.)

Related Standards

The following standards may be applicable in implementing Standard 9.7:

8.2 Family Court Structure
14.1 Purpose of Dispositions

Chapter 10
Families With Service Needs: Jurisdiction and Scope of Authority

INTRODUCTION

Family court jurisdiction over children who are brought before the court because of status offenses [1] is an immensely complex and sensitive area in the field of juvenile justice. This chapter sets forth a set of recommended standards designed to deal realistically and intelligently with this area.

After long and careful consideration of the various approaches taken by others, the members of the Juvenile Justice and Delinquency Prevention Task Force found themselves unhappy with the currently popular "either/or" approach—either retain court jurisdiction over status offenses in its traditional form or eliminate it entirely. When the members asked themselves if there is conduct that is not criminal for an adult, but that should be under some form of legal restriction for children, the answer was an emphatic "Yes!" Some retention of the court's power to intervene is appropriate and necessary, not only to protect children from themselves but to serve as a forum where they can seek relief from intolerable circumstances. And a responsible approach demands more than the simple choice between accepting current practices and excluding all status offense behaviors from the family court's jurisdiction.

Therefore, the Task Force's primary action was to take the affirmative stance that some kind of well-planned court jurisdictional scheme for certain well-defined status behaviors can and must be established. The scheme must correct current evils without abandoning due process or fair proceedings. The Task Force then defined and limited the behaviors deserving of court intervention and described the judicial mechanism that should be set up to deal with the intervention in a new and limited way. In this approach, the traditional status offenses are abolished on the basis that such acts are no more offenses than is the act of being neglected.

Selecting the Behaviors

The Task Force carefully considered all the behaviors now commonly included within the jurisdiction of juvenile or family courts as "status offenses." Among these offenses are such things as being incorrigible or beyond control or sexually promiscuous, behaviors that are usually very vaguely defined or not defined at all. Another behavior commonly included within the court's jurisdiction is violation of a State or local curfew ordinance, usually requiring juveniles not to be on the streets without lawful purpose after 10 p.m. Such ordinances are also often vaguely drawn and lend themselves to discriminatory application, with police tending to enforce them primarily against minority, lower class, or tough youth whom they assume are more likely than other youths to commit crimes. Thus, many children are being processed through the courts for vague and at times trivial or discriminatory reasons —sometimes to their detriment rather than their benefit.

The Task Force acted to discard the vague labels that have formed the basis for court jurisdiction and some serious abuses up to now. It elected instead to focus on particular kinds of conduct and to identify the kinds of surrounding circumstances that warrant court intervention. The criterion chosen was simple .The only conduct that should warrant family court intervention is conduct that is clearly self-destructive or otherwise harmful to the child.

Accordingly, the Task Force agreed that there are five behaviors that must ultimately be under the Families With Service Needs jurisdiction of the family court. Each of these behaviors was then specifically defined to reflect considered judgments as to when a problem is serious enough to require family court intervention. The five behaviors under the Famiiles With Service Needs jurisdiction are:

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[1] Status offense is the common language used to describe behavior that is not illegal for adults but is unlawful conduct for minors; e.g., truancy, running away from home, incorrigibility, etc. These are unlawful only because of a person's status as a minor, therefore the term status offenses.

1. **School Truancy.** This is defined as a pattern of repeated or habitual unauthorized absence from school by any juvenile subject to compulsory education laws. The court's power to intervene in cases of truancy should be limited to situations where the child's continued absence from school clearly indicates the need for services.

2. **Repeated Disregard for or Misuse of Lawful Parental Authority.** Family court jurisdiction under this category should be narrowly restricted to circumstances where a pattern of repeated disobedient behavior on the part of the juvenile or a pattern of repeated unreasonable demands on the part of the parents creates a situation of family conflict clearly evidencing a need for services.

3. **Repeated Running Away From Home.** Running away is defined as a juvenile's unauthorized absence from home for more than 24 hours. Family court jurisdiction in this category should be the last resort for dealing with the juvenile who repeatedly runs away from home, refuses or has not benefited from voluntary services, and is incapable of self-support. Where the juvenile is capable of self-support, the family court should give serious consideration to the dispositional alternative of responsible self-sufficiency discussed below.

4. **Repeated Use of Intoxicating Beverages.** This is defined as the repeated possession and/or consumption of intoxicating beverages by a juvenile. In this category, the family court should have the power to intervene and provide services where a juvenile's serious, repeated use of alcohol clearly indicates a need for these services.

5. **Delinquent Acts Committed by a Juvenile Younger Than 10 Years of Age.** A delinquent act is defined as an act that would be a violation of Federal or State criminal law or of local ordinance if committed by an adult. Family court delinquency jurisdiction covers juveniles of age 10 and above. This category is intended to cover the situation where a juvenile younger than 10 years repeatedly commits acts that would support a delinquency petition for an older child or where the "delinquent acts" committed are of a serious nature.

The Judicial Approach

This report recognizes the potentially devastating effect on a child of the delinquent label or even a status offense label such as PINS (Person in Need of Supervision) or CINS (Child in Need of Supervision). The five behaviors described above must be viewed in their entirety and adequate consideration must be given to the environment in which the behavior takes place. In some cases, a child engaging in this type of conduct may be behaving in an entirely normal and appropriate way.

In bringing these behaviors under the jurisdiction of the family court, the Task Force does not intend to perpetuate the traditional singular emphasis on the child. The first step in this direction is to call this area of family court jurisdiction Families With Service Needs. The change is more in substance than in semantics. What is advocated would bring the whole problem and all family participants under the jurisdiction and authority of the court regardless of who files the request for services.

Determining Jurisdiction

When dealing with any proceedings involving Families With Service Needs, the crucial issue to be decided is whether or not the child or family relationship actually needs court intervention. In doing so, the family court should be required to make two determinations. First, the court should establish the truth of the allegations of the behavior. Second, the court should determine that all available voluntary alternatives to assist the child and the family have been exhausted. This finding is jurisdictional in nature, must be recited, and the facts upon which it is based must be contained in the findings of the court.

The truth of the facts set out in the request for services should be established without making any designation of fault. This requirement is a further rejection of the traditional approach to status offenses that emphasizes the antisocial nature of the child's behavior. The absence of faultfinding also reduces the possibility that a child will acquire any type of deviant label as a result of the court proceedings or that the parents will see the factfinding as a threat to them. It also makes it more likely that the disposition will be of a rehabilitative rather than a sanctioning nature regardless of what parties are ordered to participate in the postdispositional phase.

In requiring that all nonjudicial and voluntary resources are first exhausted, the report recognizes that, in most instances, the best and most effective place to deal with the behaviors that form the basis for the Families With Service Needs jurisdiction is outside the family court system, through voluntary participation in a wide variety of community services and programs. It is true that such noncoercive services are either scarce or nonexistent in many communities at the present time. But where they do exist, the family court should insist that they be explored and used to the fullest extent before assuming jurisdiction. In this way, family court intervention will be made available only where a real need exists. Such a jurisdictional limitation also should heighten community awareness of the need to develop noncoercive resources where they are inadequate or nonexistent.

The Scope of Jurisdiction

The basic concern of juvenile courts has traditionally been treatment and rehabilitation of the children coming before them. The aim is to divert them from crime and direct them to becoming law-abiding and productive members of adult society. But it is widely recognized that one of the major failings of the juvenile justice system in this country has been its inability to provide what it was designed to provide. In the area of status offenses, current evidence indicates that much of the present court intervention has failed to accomplish its avowed purpose of preventing subsequent deviant behavior. In fact, at times it has actually worked to accelerate such behavior and even has led to more serious deviant behavior.

One of the most significant reasons for this is that the jurisdictional power of the traditional juvenile court has not been broad enough to make intervention profitable. Thus, the Task Force envisions the Families With Service Needs jurisdiction extending not only to the child but also to the parents or guardians and any public institution or agency with the legal responsibility or discretionary ability to supply services to help in dealing with these problems. In this way, the family court will have a direct jurisdictional tie to any person, school system, treatment facility, or service associated with the child's behavioral problem.

One example would be the child who repeatedly runs away from home because the parents' behavior has made the home situation intolerable. The family court could order the child returned to the home. But at the same time, it could order the parents to modify their behavior to make the home life more acceptable. Another example would be the child who is truant from school because an inability to read at his or her grade level makes classroom work impossible. The family court could make complementary orders that the child attend school and that the school provide some kind of remedial reading service to make his or her school attendance profitable.

Dispositions

The broader scope of jurisdiction widens the range of dispositional alternatives available to the family court. In exercising this jurisdiction, the family court would have the power to command the assistance and cooperation of institutions serving children and families. Thus, the dispositional orders could command the provision of services, the cooperation with offered services, and/or the continuation or discontinuation of behaviors by any party. The placement of the child in alternative care would also be possible, but only with the important limitations outlined below.

With regard to orders affecting services for the child, investigation showed that the dispositional alternatives presently available to the juvenile courts for dealing with status offenders are often exactly the same as those for delinquents. The most damaging consequence of this appears to be that youths involved in noncriminal behavior may be committed to institutions where they are not only treated as delinquents but are also forced into close and constant association with juveniles who are serious delinquents.

This procedure is inappropriately punitive for the nondelinquent and serves no useful purpose in terms of providing needed services to the child or to his or her family. Indeed, such association may aggravate rather than alleviate the pressure toward future inappropriate behavior. The Task Force took the position, therefore, that under no circumstances should the family court under the Families With Service Needs jurisdiction confine the child to an institution to which delinquents are committed. Furthermore, this report takes the position that confinement in any institution with a security system involving locked doors or fences designed to keep children within that institution is equally inappropriate under the Families With Service Needs jurisdiction.

These restrictions are intended to cover not just initial dispositional orders but all such orders stemming from a Families With Service Needs proceeding. Thus, an initial order to a juvenile to cease a certain behavior could not, by violation of that order, escalate to a commitment to an institution to which delinquents are committed or one with the kind of security system outlined above.

In addition, in appropriate situations under the Families With Service Needs jurisdiction, the family court should have the power to enter an order of responsible self-sufficiency. This would be based on the finding that a child has the maturity and ability to sustain independent self-support and, under the particular circumstances, would be better off doing so. The family court would have to determine that the child understands all rights and duties associated with freedom from parental control and that the child has an acceptable plan for independent living along with the resources and apparent ability to carry out this plan.

The order of responsible self-sufficiency would most likely be appropriate in cases arising from petitions based on repeated disregard for or misuse of parental authority or repeated running away. Sometimes the circumstances of such cases indicate a family situation that appears so far beyond the reach of any services of the family court that requiring a child to remain in or return to the home is not an acceptable alternative. In a limited number of cases, the particular child involved is exceptionally mature and capable of self-support. The responsible self-sufficiency disposition was designed to accommodate such situations.

Summary

This report has recommended that certain specifically defined juvenile behaviors should come under family court jurisdiction and that this jurisdiction should be called Families With Service Needs. A request for services in the form of a petition would be made by the child, parent or other agency or institution coming in contact with the child or parent. The petition would allege:

1. That one or more of the defined behaviors took place;
2. That all available and appropriate outside services have been exhausted; and
3. That the behavior or behaviors require court intervention to provide services.

When the allegations are determined to be true, the case would be subject to Families With Service Needs jurisdiction. In deciding the case, the court could make an order affecting any party before it and the court's jurisdiction would extend to the child, the parents and any agency having a legal responsibility or discretionary authority and ability to provide services needed by the child or family.

Standard 10.1

Families With Service Needs Petition

The Families With Service Needs jurisdiction should be invoked by a petition that is a formal request for family court intervention to provide appropriate services.

The petition may be brought by the parent, child or any other individual or agency coming in contact with the parent and/or child and having reason to believe that the Families With Service Needs jurisdiction should be exercised on behalf of the parent and/or child.

Commentary

This standard requires that the petition used to invoke the family court Families With Service Needs jurisdiction be in the form of a request for services. Although this is a procedural point, it is important because the end result of any Families With Service Needs proceeding is the ordering of services intended to solve the problem before the court. The petition therefore is structured in a form that requests these services.

Traditionally, petitions for judicial intervention in cases involving behavior such as truancy, or running away have been brought by the school or other agency against a child. Under the Families With Service Needs concept, the petition is still brought on the basis of some specific conduct that has occurred. But it can be brought by anyone associated with the conduct of the child and even by the child. And once initiated, any relevant party, including the petitioner, becomes subject to the Families With Service Needs proceedings.

This approach is a departure from past procedure with its nearly exclusive focus on the child. The Families With Service Needs proceedings recognize that the problem may be family-centered and may, in fact, extend even beyond the family to the school or to other institutions in the community. The family court should therefore evaluate the behavior of all parties before it, including the juvenile, parents or legal guardians, school systems and officials, and where appropriate, any other individual, institution, or agency that might be responsible for the particular problem before it.

Related Standards

The following standards may be applicable in implementing Standard 10.1:

5.6 Guidelines for Taking a Juvenile Into Custody
8.2 Family Court Structure
10.2 Allegations Contained in the Families With Service Needs Petition

10.3 Scope of Jurisdiction

12.1 Case Processing Time Frames

12.8 Families With Service Needs—Preadjudicatory Shelter Care

13.1 Plea Negotiations Prohibited

14.23 Families With Service Needs—Dispositional Alternatives

14.24 Responsible Self-Sufficiency

16.2 The Role of Counsel in the Family Court

16.5 Representation for Children in Family Court Proceedings

16.6 Representation for Parents in Family Court Proceedings

16.7 Stages of Representation in Family Court Proceedings

16.12 Communications With Youth Clients and Witnesses

Standard 10.2

Allegations Contained in the Families With Service Needs Petition

The Families With Service Needs petition should allege:

1. That one or more of the specific behaviors under the Families With Service Needs jurisdiction has occurred;

2. That all available and appropriate noncoercive alternatives to assist the child and family have been exhausted; and

3. That by virtue of this behavior and the lack of appropriate voluntary alternatives, the child and/or family is in need of court intervention for services. The family court should determine whether each of the facts alleged in the petition is true. However, there should be no designation of fault attached to these determinations.

Commentary

This standard enumerates the specific allegations that must appear in each Families With Service Needs petition and the findings the family court must make with respect to these allegations.

The Behavior

The specific behaviors included under the Families With Service Needs jurisdiction are truancy, running away, disregard for or misuse of parental authority, the use of intoxicating beverages and "delinquent acts" by a child younger than 10 years of age. The petition must allege that one or more of these behaviors has occurred. The family court should then determine the truth of the allegation.

The objective of the court's findings is not to assign fault and mete out punishment. It is to determine the source of the problem so that it may be solved. Therefore, in arriving at its finding, the court should make no designation of fault for the behavior alleged in the petition.

The report aim is to avoid the approach of the traditional status offense jurisdiction that emphasizes the behavior of the child and its antisocial or deviant nature. The behaviors under the Families With Service Needs jurisdiction would not support a family court delinquency petition, should never be considered delinquent behavior, and should not be the basis for attaching to the juvenile any social stigma. They are behaviors occurring within a family or school environment that indicate a child or family relationship is experiencing serious difficulties and is in need of some kind of services or treatment. The primary emphasis of the family court proceeding should not be on assigning fault for the behavior. It should be on the need for these services and the assurance that the services will be effective in solving the particular problem.

The Use of Noncoercive Resources

The Families With Service Needs petition also must allege that all available and appropriate noncoercive resources to aid the juvenile and family have been exhausted. Before assuming jurisdiction, the family court must make a finding to this effect.

This requirement is designed to assure full utilization of all appropriate community resources outside of the family court system. At the same time, it provides for recourse to the family court where such resources do not exist, have been refused, or have proved ineffective. It acknowledges the great need for the development of community resources to deal with many of the behaviors that now form the basis for referral to the family and juvenile courts.

Use of outside resources is of special importance when dealing with the behaviors that fall within the Families With Service Needs jurisdiction of the family court. These behaviors are nondelinquent in nature and do not represent situations that would support a neglect petition. The best and most effective place to treat the major portion of them is outside of the family court system through services or programs that families can obtain or be involved in on a noncoercive, voluntary basis. Treatment voluntarily received should, by its very nature, be more effective than forced treatment. Furthermore, involvement in the court system, because a stigma may be attached to such involvement, should be avoided wherever possible.

Therefore, before exercising jurisdiction over any of the behaviors described in the standards on Families With Service Needs, the family court must make the following series of specific findings with respect to voluntary services. The family court must first determine if voluntary services to deal with the juvenile or family's specific problem are available in the community. If the court finds that no such services are available, it may take jurisdiction and if the petition is sustained it may order a disposition that is consistent with the standards on disposition.

If the family court finds that appropriate voluntary services are available, it must then determine whether these services have been offered to the juvenile and his or her family. The family court should not be empowered to exercise Families With Service Needs jurisdiction until it is able to make a finding that all available services appropriate to the particular case being considered have been offered.

Where resources are available and have been offered to the juvenile and the family, the court must then determine whether or not they have been fully utilized. If the juvenile or family has unreasonably refrained from making use of the available programs, the family court can exercise jurisdiction to force them to receive services. This situation should be possible only if the voluntary services have been offered in such a manner that the juvenile and the family have been given every possible chance to solve their problem outside of the family court system and still refuse to take advantage of the assistance offered.

The family court also may exercise jurisdiction where the juvenile or family has taken advantage of available programs and, after having had a reasonable time in which to benefit from them, has failed to do so. At this point, referral to the family court is the only alternative for dealing with the juvenile and family that continue to be in need of services.

It should be noted that the court must have made a specific finding as to a particular behavior before it can determine which resources are appropriate to that behavior. So, in some cases, the allegation filed in the petition that all available alternative resources have been exhausted may not be conclusive or even appropriate. However, the allegation should be supported by an assessment by an intake worker of what services are available and what services are exhausted. In fact, this assessment of which community resources have been tried and which remain to be explored should be the primary inquiry of the intake worker. Only after all alternatives have been unsuccessfully attempted should the family court petition be filed.

The Need for Court Intervention

Finally, the petition must allege and the family court must find that the juvenile or family is in need of court intervention for services. This requirement is actually a culmination of the two previous conditions—that the alleged conduct occurred and that all available noncoercive services have been exhausted.

In all Families With Service Needs proceedings, the focus should first of all be on the need of the juvenile or the family or both for services because of the behavior and then on whether court intervention is necessary to provide these services. This standard requires, therefore, that the court actually consider whether intervention for services is needed. It thus provides a mechanism whereby the family court is obligated to go beyond the simple determinations that the specific behavior alleged has taken place and that available resources have been exhausted. It requires the court to evaluate the circumstances and factors that may have prompted that behavior.

Thus, where one or more of the defined behaviors has taken place, there could be two situations in which a juvenile or family could be in need of court intervention for services. First, there are no available voluntary community resources to fall back on and the juvenile or family is clearly in need of services. Second, the juvenile or family is clearly in need of services but has exhausted whatever voluntary resources are available, either by refusing to take advantage of them or by failing to benefit from them.

It is conceivable, however, that a situation might arise where the defined behavior has taken place and there is no need for services of any kind. An example would be an isolated incident of running away from home that cannot be seen as symptomatic of any personal or family difficulty meriting services. In such a case, the requirement of family court intervention to secure services is not fulfilled and the court should not exercise jurisdiction.

In deciding whether family court intervention is required to secure needed services, the judge also should consider what that intervention might realistically be expected to accomplish. If the court has no resources at its disposal to deal with the particular problem before it, assuming jurisdiction would be futile because intervention would have no purpose.

References

1. Lemert, Edwin M. *The Juvenile Court—Quest and Realities,* in President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

2. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 10.2:

5.10 Guidelines for Diversion or Referral to Community Resources
10.1 Families With Service Needs Petition
10.3 Scope of Jurisdiction
10.4 Running Away
10.5 Truancy
10.6 Disregard for or Misuse of Parental Authority
10.7 Use of Intoxicating Beverages
10.8 "Delinquent Acts" by Child Younger Than 10

Standard 10.3

Scope of Jurisdiction

In the Families With Service Needs proceedings, once jurisdiction is established, it should extend to the child, his or her parents, and any public institution or agency with a legal responsibility to provide needed service to the child or parents.

Commentary

Up to now, the traditional status offense jurisdiction of the juvenile and family courts has focused entirely on the individual child and his or her treatment. The governing statutes in this area have, for the most part, dealt in terms of jurisdiction over the child as a "person in need of supervision," a "child in need of supervision," or a number of other such labels. Furthermore, dispositional orders have always been framed in terms of services, treatment, or institutionalization for the child.

This exclusive emphasis on the child overlooks the family and institutional context in which most of these behaviors occur. The behavior of the juvenile or parent forms the basis for the Families With Service Needs jurisdiction. But it also serves as a symptom of some kind of distress within the family and institutional system. This relationship is most obvious in the case of behaviors such as running away and disregard for or misuse of parental authority. But most instances of the other behaviors (truancy, use of intoxicating beverages, and "delinquent acts" by a child younger than 10) also can be traced to some kind of family dysfunction. Moreover, with truancy there is the additional factor of the school and its relation to the behavior.

If there is to be any meaningful intervention on the basis of these behaviors, that intervention will have to be broad enough to include any individual or institution associated with those behaviors. For this reason, the Families With Service Needs jurisdiction extends to the child, the parents, and any public agency or institution with the legal responsibility or discretionary ability to provide needed services to the parent or child. This includes the school system, public institutions and treatment facilities, and the public welfare system.

In fashioning this broad jurisdictional reach for Families With Service Needs cases, the report's intent is to strengthen the powers of the family court and its judges. This standard enables them to command the cooperation and assistance of all publicly funded resources with the duty or authority to provide services to families and children and to insure that they receive the care and treatment that they need for these resources. However, nothing in the standard is intended to prevent or discourage the family court from seeking services from private institutions or agencies where they are available. But any coercion with respect to private agencies will have to take the form of forcing the child or parent to take advantage of offered services rather than forcing the agency to provide a specific service.

This broad jurisdictional reach for Families With Service Needs cases will have a number of concrete advantages over the traditional status offense jurisdiction that covers only the child. It will provide the court with a direct jurisdictional tie to the family and any institution associated with the particular behavioral problem before the court. This will encourage more effective dispositional orders because the entity with responsibility for directly addressing the problem will be before the court and within its reach. It also will encourage the dispositional focus to be directed where it belongs in most instances of these behaviors, toward the family as a whole. Finally, it will reduce the chance of any stigma being attached to a child by virtue of a contact with the family court; the court may intervene by virtue of the defined behaviors on a no-fault basis and without the necessity of labeling a child delinquent or a status offender.

References

1. Behavioral Research and Evaluation Corporation. *The Incidence and Nature of Runaway Behavior*. Washington, D.C.: Department of Health, Education, and Welfare, 1975.

2. California Senate Bill No. 523, Sec. 727.

3. Children's Defense Fund. *Children Out of School in America*. Cambridge, Mass.: Children's Defense Fund of the Washington Research Project, Inc., 1974.

4. Gough, Aidan R., and Grilli, Mary Ann. "The Unruly Child and the Law: Toward a Focus on the Family," *Juvenile Justice*, Vol. 23 (1972).

5. Johnson, Thomas F. "Treating the Juvenile Offender in His Family," *Juvenile Justice*, Vol. 24 (1973).

6. New York Family Court Act §255 (supp. 1974).

7. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 10.3:

10.1 Families With Service Needs Petition
10.2 Allegations Contained in the Families With Service Needs Petition
19.3 Provision for Services

Standard 10.4

Running Away

The Families With Service Needs jurisdiction should include jurisdiction over juveniles who repeatedly run away from home. Running away should be defined as a juvenile's unauthorized absence from home for more than 24 hours.

Commentary

> Everyone, everywhere wants to run away from something.
>
> For some, the thought of running away is nothing more than an escapist fantasy; for others its can be dispelled with a change of pace or routine. But for some, there is no alternative but to take physical leave of an unbearable situation. They run away, usually in secret and in warm weather, to cut the ties that hurt. They run to hide, to escape, to forget, to follow a dream . . . to begin. Taking such leave can be a cry of pain or a sign of health seeking surface. [Lillian Ambrosino—*Runaway*]

As used here, home is the juvenile's place of residence approved by the parents or legal guardian. An unauthorized absence is one not consented to by the parents or legal guardian or by an adult placed in supervision over the juvenile by the parents or legal guardian. This definition gives the adult with immediate supervisory responsibility over the juvenile the authority to consent or not to consent to the child's absence from home.

This standard requires that a juvenile must be away from home for more than 24 hours before being termed a runaway. Leaving home for periods of less than that time to avoid a family disagreement or to cool off from one is often a useful way of preserving family stability. It should not subject a juvenile to family court jurisdiction. In fact, even most preadolescents are exposed to no great danger if away from home without permission during daylight hours.

The 24-hour period is intended only to limit the the family court's jurisdiction over the child and not to restrict police actions to find and return the child home. Nothing in this standard should be interpreted as discouraging law enforcement officials from conducting investigations and searches within the 24-hour time period.

The standard limits family court jurisdiction to cases where the juvenile runs away repeatedly. Very rarely do isolated instances of runaway behavior indicate severe family dysfunction or personal problems. However, a pattern of repeated acts of leaving home without permission and remaining away for extended periods of time may indicate an underlying problem requiring family court attention.

The problems that prompt children to run away are many and varied. Family arguments or other kinds of home-related difficulties are probably the most common problems. Children also run away because of school-related problems, both academic and behavioral. There are also children whose running away is part of a larger pattern of delinquent behavior and children who run away as a result of mental or emotional disorders.

But there are also instances where a juvenile's running away from home could only be viewed as a constructive rather than destructive act. Where the circumstances of a particular case indicate that to remain in the home would be physically or emotionally unhealthy, it would be clearly against the child's best interests to return him to the home. With young children who do not have the experience or maturity to provide for themselves, some kind of alternative living situation such as a foster or group home may be necessary. However, where the particular juvenile is able to care for himself or herself and such a solution seems preferable to alternative care, the family court should give serious consideration to the dispositional alternative of Responsible Self-Sufficiency.

The U.S. Congress in its Runaway Youth Act established a Federal grant program to provide funding for locally controlled facilities providing temporary shelter and counseling services to juveniles who have left home without the permission of their parents or guardian. These facilities would be operated outside of the juvenile justice system. Consistent with the other standards in the Families With Service Needs jurisdiction, where such services are available in the community, utilization of them should be mandatory before jurisdiction can be assumed. The family court should be the agency of last resort for dealing with the child who refuses or has not benefited from voluntary services, who repeatedly runs away, and who is unable to care for him or herself.

This standard does not attempt to deal with the situation where the parents order the child out of the home and refuse to allow his or her return. That problem should be handled under the family court's Endangered Child jurisdiction.

References

1. Ambrosino, Lillian. *Runaways.* Boston, Mass.: Beacon Press, 1971.

2. Beaser, Herbert Wilton. *The Legal Status of Runaway Children.* Washington, D.C.: Educational Systems Corporation, 1975.

3. Behavioral Research and Evaluation Corporation. *A Study of Issues Relating to Runaway Behavior.* Washington, D.C.: Department of Health, Education, and Welfare, 1974.

4. Behavioral Research and Evaluation Corporation. *The Incidence and Nature of Runaway Behavior.* Washington, D.C.: Department of Health, Education, and Welfare, 1975.

5. Research Department, Community Health and Welfare Council of Hennepin County, Inc. *Follow Up Study of Runaway Youth Served by the Bridge.* Hennepin County, Wisconsin: Community Health and Welfare Council of Hennepin County, Inc., February 1972.

6. Runaway Youth Act, 42 USC §§5701-5751 (1974).

7. *Runaway Youth—Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, U.S. Senate.* Washington, D.C.: Government Printing Office, 1972.

Related Standards

The following standards may be applicable in implementing Standard 10.4:

5.6 Guidelines for Taking a Juvenile Into Custody
10.1 Families With Service Needs Petition
10.2 Allegations Contained in the Families With Service Needs Petition
10.3 Scope of Jurisdiction
12.8 Families With Service Needs—Preadjudicatory Shelter Care
14.23 Families With Service Needs—Dispositional Alternatives
14.24 Responsible Self-Sufficiency

Standard 10.5

Truancy

The Families With Service Needs jurisdiction should include jurisdiction over truancy. Truancy should be defined as a pattern of repeated, unauthorized absences or habitual absence from school by any juvenile subject to the compulsory education laws of the State.

Commentary

There is presently a wide variety of school-related behavioral problems that bring juveniles before the juvenile and family courts. Many of these problems, such as erratic attendance and poor patterns of classroom behavior, are thought to be some of the primary indicators of possible future delinquency. The range of school behaviors that now subject a child to court jurisdiction is far too broad and too many children are being brought into the juvenile justice system for school-related problems that should be handled within the community educational system.

Therefore, in considering the various school-related misbehaviors that commonly come within the juvenile or family court's jurisdiction, this report comes to three conclusions. First, school misbehavior consisting of acts that would be crimes if committed by an adult should be handled under the family court's delinquency jurisdiction. Second, general in-school misbehavior not amounting to delinquent acts is not appropriate for family court intervention. The community should be encouraged to develop resources and services outside the court system to handle these problems. Finally, in a limited number of cases, school truancy is a problem that needs family court intervention.

The court's power to intervene in the cases of truancy should be very strictly limited. Most children who are truant do not need the family court to provide them with the services they require. Their problems may be solved through existing community social services. Thus, the court's power to intervene in the case of truancy should be exercised only when a child's continued absence from school clearly indicates that he or she is in need of services and when all possibilities for obtaining these services outside of the court system have been explored and exhausted.

There are many reasons why children are truant from school. Sometimes habitual absence is simply a particular child's way of saying that for one reason or another he or she does not like school. In other cases, truancy is a part of a larger pattern of delinquent behavior. In many cases, however, the reasons behind a child's school truancy are not simply or easily stated. Many children have special physical, mental, or emotional needs not being met by the often limited programs in the community schools. Poverty may prevent a child from attending school because of an inability to pay even the most minimal school fees or to wear shoes or presentable clothing. Family problems that either require the child to stay home or destroy any desire to go to school may be the cause of truancy. In an appalling number of cases, the reason is as basic as the inability to speak or comprehend the English language. Often the school, for one reason or another, has failed to provide an educational experience relevant and stimulating enough to make school attendance seem worthwhile.

This country has always placed great value on the education of its youth. It depends to a large extent on its schools to provide the background and training to enable children to grow into responsible adult citizens. The parent's traditional role in the educational process has been to provide encouragement, discipline, and where necessary, even coercion to see that their children receive the best education possible. In contemporary society, however, there are an increasing number of instances where, for various social and economic reasons, these roles have broken down. As a result, a child not attending school requires some form and degree of remedial services. In the large majority of cases, existing community resources should provide these services. But the family court must have the ability to intervene and provide services in the limited number of cases that cannot be handled through noncoercive resources outside of the family court system.

An unauthorized absence under this standard is intended to be one that has not been properly consented to by the juvenile's parents or legal guardian or by an adult under whose supervision the juvenile has been placed by a parent or guardian. The standard requires a pattern of repeated unauthorized absences or habitual unauthorized absence from school before the family court can take jurisdiction. This leaves to the family court's discretion the number of absences needed to constitute truancy. There are probably a great many youngsters who miss a few days of school every year without permission or even in direct disobedience of parents. These sporadic unauthorized absences are not the behavior intended to be addressed in this standard. However, it seems counterproductive to require a number of unauthorized absences so high that the underlying cause of that behavior has had a chance to fester and become a grave and possibly insoluble problem before the family court can take jurisdiction and provide appropriate services. Accordingly, the judge should exercise his or her discretion to require a number that is high enough to exclude the occasional days missed through caprice or impulse, but low enough to allow the family court to deal promptly with the problem of the habitually absent child in need of services.

This standard is not intended to cover continued absences that are inappropriately authorized by the parent, legal guardian, or other responsible adult. That problem should be handled in accordance with the compulsory education or neglect laws of the State. Therefore, if in the course of a Families With Service Needs proceeding based on truancy, the court discovers that the absences have been improperly consented to, tolerated by, or encouraged by the responsible adult, the petition should be dismissed and appropriate proceedings begun under the State's neglect or compulsory education laws.

References

1. Arthur, Lindsay. "Status Offenders Need Help Too," *Juvenile Justice*, Vol. 26 (1975).

2. Children's Defense Fund. *Children Out of School in America*. Cambridge, Mass.: Children's Defense Fund of the Washington Research Project, Inc., 1974.

3. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. Saccuzzo, Dennis P., and Milligan, John R. "Mass Truancy Hearings: A Follow Up Study," *Juvenile Justice*, Vol. 24 (1973).

Related Standards

The following standards may be applicable in implementing Standard 10.5:

3.9 Education—Integrating Schools Into the Community
3.10 Education—Developing Comprehensive Programs for Learning
3.11 Education—Survival Education
3.12 Education—Alternative Education
3.13 Education—The Home as a Learning Environment
3.14 Education—Bilingual and Bicultural Education
3.15 Education—Supportive Services
3.16 Education—Problems in Learning
3.17 Education—Learning Disabilities
3.18 Education—Teacher Training
3.19 Education—Utilization of School Facilities
3.20 Education—The School as a Model of Justice
3.21 Education—Career Education
10.1 Families With Service Needs Petition

10.2 Allegations Contained in the Families With Service Needs Petition
10.3 Scope of Jurisdiction

14.23 Families With Service Needs—Dispositional Alternatives
14.24 Responsible Self-Sufficiency

Standard 10.6

Disregard for or Misuse of Parental Authority

The Families With Service Needs jurisdiction should include jurisdiction over the repeated disregard for or misuse of lawful parental authority.

Commentary

This standard attempts to deal with the widespread and often extremely complex problem of conflict between parent and child. Unfortunately, the traditional status offense jurisdiction over the "incorrigible" or "beyond control" child has been an easy and much overused means of court intervention in all kinds of family-related problems. Very often a child's disobedience has led to knee-jerk responses: first, that the child is at fault and, second, that something must be done about it. Many children involved in family conflict situations have thus been labeled delinquents or status offenders. And court resources have been expended to handle the child with no rational determination ever made as to who or what is the source of the family problem.

This report contends that only a very limited number of children who are disobedient to their parents need to be handled by the family court. Family court jurisdiction over disobedient children should be narrowly confined to those instances where there is a very difficult family situation and a clear need for services otherwise unavailable in the community. Thus, the standard requires that there be repeated disregard for the lawful parental authority before family court jurisdiction is warranted. Furthermore, consistent with the other Families With Service Needs standards, appropriate noncoercive services that exist within the child's community must be fully explored and exhausted before the family court may exercise its jurisdiction.

The standard also includes situations where parents repeatedly misuse their lawful authority. It refers to situations where unreasonable and pointless parental demands on a child are producing serious family conflict situations. To a certain extent, it will be up to the family court judge to decide what are, or are not, reasonable parental demands. As broad guidelines, he or she may look to whether the demand is reasonably designed to assure the good order and discipline of the family unit or the protection of the juvenile's welfare. In all cases, the family court judge should consider the overall family situation and the context within which the parental demands were made.

This standard addresses repeated disregard for or misuse of lawful parental authority. This should not be interpreted as requiring habitual disregard or misuse before the family court can exercise its jurisdiction because behaviors that have become habits are increasingly unresponsive to remedial or counseling services. There must, however, be some pattern of disobedient behavior or misuse of authority and not just a few insignificant and isolated incidents. Again, it will be up to the family court judge to exercise his discretion as to when a particular situation has reached the point that indicates a clear need for services.

This standard is not intended to cover cases where a parent induces a child to commit a delinquent act or the situation where for one reason or another the parent is unable to perform his or her parental function. Both of these problems are handled under the family court's Endangered Child jurisdiction.

References

1. Arthur, Lindsay. "Status Offenders Need Help Too," *Juvenile Justice*, Vol. 26 (1975).

2. Lemert, Edwin M. *The Juvenile Court—Quest and Realities* in President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

3. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. Rodman, Hyman, and Grams, Paul. *Juvenile Delinquency and the Family: A Review and Discussion,* in President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 10.6:

3.3	Family—Parent Training
3.4	Family—Family Counseling
10.1	Families With Service Needs Petition
10.2	Allegations Contained in the Families With Service Needs Petition
10.3	Scope of Jurisdiction
12.8	Families With Service Needs—Preadjudicatory Shelter Care
14.23	Families With Service Needs—Dispositional Alternatives
14.24	Responsible Self-Sufficiency

Standard 10.7

Use of Intoxicating Beverages

The Families With Service Needs jurisdiction should include jurisdiction over the repeated possession or consumption of intoxicating beverages by juveniles.

Commentary

The possession or consumption of intoxicating beverages by minors is subject to some degree of penal sanction in most, if not all, jurisdictions. This standard places that behavior by a juvenile under the Families With Service Needs jurisdiction of the family court.

One reason for this concern with juvenile drinking is the important part it plays in shaping future attitudes toward alcohol. Most people first experience the use of alcohol at some time during their youth. These first experiences may have a profound influence upon later patterns of use or abuse. Surrounding adult attitudes toward alcohol compound the juvenile's problem in setting these patterns. Legal sanctions and regulatory norms espoused by institutions such as churches, schools, and the family usually seek to restrict or prevent the consumption of alcohol by youths. But at the same time, alcohol consumption plays a major role in adult behavior and social relationships. In the face of this dichotomy, developing a healthy pattern of alcohol use can often prove quite difficult. Youths may easily become confused and disheartened when confronted with society's ambivalent attitude toward alcoholic beverages and their use.

But the problem goes further than a juvenile's difficulty in developing healthy adult attitudes toward alcohol. In 1971, the White House Conference on Youth reported that one of the most insidious problems of modern youth is the use and abuse of alcohol. The proportion of American children who drink to excess has substantially increased in the past few years. This excessive use of alcohol among youth presents a problem in its own right, apart from the effect it may have on future adult behavior.

This report concludes that a limited number of juveniles who are found repeatedly to be possessing or actually drinking alcoholic beverages should be subject to the Families With Service Needs jurisdiction. If noncoercive resources for providing service to the juvenile with an alcohol problem exists in the community, they must be exhausted before the family court may take jurisdiction. However, where these resources do not exist or have been exhausted and a juvenile's serious repeated use of alcohol clearly indicates a need for services, the family court must have the power to intervene and provide these services.

It should be noted that many States either already have or are considering legislation to decriminalize the mere possession of limited amounts of marijuana—making such possession punishable only by citation and a small fine. Where these statutes exist, a juvenile cited for possessing marijuana would not be subject to the family court's delinquency jurisdiction if such jurisdiction only extends to behavior that would violate State or Federal criminal law or local ordinance if committed by an adult. (See Standard 9.1—Definition of Delinquency.) However, a juvenile's repeated possession of marijuana may be as much an indication of personal difficulties or family dysfunction as the repeated use or possession of alcoholic beverages. States having decriminalizing statutes may, therefore, wish to make the repeated possession of marijuana by a juvenile one of the behaviors supporting the Families With Service Needs jurisdiction. The family court would thus have the power to intervene and provide services where this behavior clearly indicates the family or the juvenile or both are in need of services that cannot for some reason be provided outside of the family court structure.

References

1. Chafetz, Morris E., Ed. *Proceedings of the First Annual Alcoholism Conference of the National Institute of Alcohol Abuse and Alcoholism, Research on Alcoholism: Clinical Problems and Special Populations.* Washington, D.C.: Government Printing Office, 1973.

2. Chafetz, Morris E., Ed. *Proceedings of the Second Annual Alcoholism Conference of the National Institute of Alcohol Abuse and Alcoholism, Psychological and Social Factors in Drinking and Treatment and Treatment Evaluation.* Washington, D.C.: Government Printing Office, 1973.

3. Department of Health, Education, and Welfare. *First Special Report to U.S. Congress on Alcohol and Health.* Washington, D.C.: Government Printing Office, 1974.

4. Department of Health, Education, and Welfare. *Second Special Report to U.S. Congress on Alcohol and Health.* Washington, D.C.: Government Printing Office, 1974.

5. *Report of the White House Conference on Youth.* Washington, D.C.: Government Printing Office, 1971.

Related Standards

The following standards may be applicable in implementing Standard 10.7:

3.1 Health—Providing Health Services
3.2 Health—Mental Health Services
5.6 Guidelines for Taking a Juvenile Into Custody
9.1 Definition of Delinquency
10.1 Families With Service Needs Petition
10.2 Allegations Contained in the Families With Service Needs Petition
10.3 Scope of Jurisdiction
12.8 Families With Service Needs—Preadjudicatory Shelter Care
14.23 Families With Service Needs—Dispositional Alternatives

Standard 10.8

"Delinquent Acts" by Child Younger Than 10

The Families With Service Needs jurisdiction should include jurisdiction over juveniles younger than 10 who commit repeated "delinquent acts" or a "delinquent act" of a serious nature.

Commentary

This standard complements Standard 9.2 (Minimum Age for Family Court Delinquency Jurisdiction). That standard removes juveniles younger than 10 years of age from the delinquency jurisdiction of the family court. This standard places juveniles under 10 who are charged with a "delinquent act" under the Families With Service Needs jurisdiction of the family court. It should be reviewed in the context of Standard 9.1 (Definition of Delinquency), which defines a delinquent act as "an act that would be a violation of Federal or State criminal law or local ordinance if committed by an adult."

In precluding the exercise of the delinquency jurisdiction over juveniles of less than 10 years, the report does not intend that these juveniles' misconduct and attendant problems should go unnoticed or untreated. A very young child who repeatedly engages in behavior that would be defined as a delinquent act if he or she were age 10 or older or who commits an act of aggravated or serious nature may very likely be signaling an acute need for some form of service or treatment. In many instances, this kind of behavior in young children is an indication of serious family disharmony that must be considered and dealt with if there is any hope of preventing delinquency. These problems of family dysfunction are best handled under the Families With Service Needs jurisdiction, where the family court is oriented toward securing remedial services rather than imposing sanction.

There is little purpose in authorizing delinquency jurisdiction over juveniles who are too young and immature to understand that engaging in certain behavior constitutes a criminal offense. The minimum age of 10 establishes a proxy measure for the minimum level of accountability. This age limit has some basis in available arrest statistics, which show a significant drop in arrest rates for law violations by children younger than 10; and in fact the majority of States that have placed minimum age restrictions on the exercise of delinquency jurisdiction have set the minimum age at 10.

Moreover, there is no intent to recommend that a child of younger than 10 be committed to an institution where he or she will come into contact with older and more experienced delinquents. The Families With Service Needs dispositional restrictions would effectively prevent this from happening.

As with other behaviors that support the Families With Service Needs jurisdiction, expectations are that only a limited number of cases of "delinquent acts" by children younger than 10 will come before the family court. All appropriate noncoercive resources available outside the family court system must first be exhausted. Family court jurisdiction would then be authorized only where a child's repeated "delinquent acts" or a child's "delinquent act" of serious nature indicates a clear need for services that cannot be provided without court intervention.

The determination of what behavior constitutes a serious "delinquent act" must be, to some extent, within the discretion of the family court and will depend on the age of the child, the circumstances of the behavior and various other factors. Generally, however, it is intended that this would involve conduct that would be a crime malum in se if committed by an adult—that it would embrace acts immoral or wrong in themselves, such as burglary, larceny, arson, rape, murder, and breaches of the peace.

Related Standards

The following standards may be applicable in implementing Standard 10.8:

5.6 Guidelines for Taking a Juvenile Into Custody
9.1 Definition of Delinquency
9.2 Minimum Age for Family Court Delinquency Jurisdiction
10.1 Families With Service Needs Petition
10.2 Allegations Contained in the Families With Service Needs Petition
10.3 Scope of Jurisdiction
12.8 Families With Service Needs—Preadjudicatory Shelter Care
14.23 Families With Service Needs—Dispositional Alternatives

Chapter 11
Endangered Children: Jurisdiction and Scope of Authority

INTRODUCTION

Each year the judiciary coercively intervenes in the lives of more than 140,000 children whose parents are charged with child abuse or neglect. Social service agencies investigate thousands of additional cases of alleged mistreatment. And this year, between 200,000 and 300,000 youngsters who have been previously adjudicated neglected, abused, dependent or deprived continue to live apart from their parents, under State supervision.

Despite the widespread use of coercive intervention, there is remarkably little consensus as to when a court should find a child neglected or abused. State statutes typically define abuse and neglect in very broad terms that focus principally on parental behavior rather than on specific harms to the child. For example, a court may declare a child "neglected" when it finds that he or she "lacks proper parental care" or has an "unfit" environment, or has "immoral" parents. Thus, courts and social service agencies are vested with wide-ranging discretionary authority to make a myriad of low-visibility decisions, having enormous impact on children and their families, often without specifying the basis for their actions.

The standards in this report outline a general philosophy and set forth basic value judgments regarding coercive intervention. At the heart of the proposed system are a strong presumption for parental autonomy in child rearing and the philosophy that coercive intervention is appropriate only in the face of serious, specifically defined harms to the child. The standards advocate substantial changes in existing laws and agency procedures. The concepts of neglect, dependency, and abuse are discarded as the standards approach the subject of maltreated children under the rubric of the Endangered Child.

The standards seek to accommodate two sets of competing interests: (1) the interests of the State and the child, and (2) the interests of the parents and the child. The interests of the State and the child require that children be protected from serious harm. The interests of the parents and the child require that they be free from unwarranted State involvement. On the one hand, the standards recognize that some children are genuinely endangered and that coercive intercession is essential for their protection. On the other hand, the standards recognize that all coercive intervention involves costs as well as gains.

Intervention disrupts family ties and can generate substantial psychological trauma for the child. Moreover, when a child is removed from his or her family and placed in foster care, society often lacks the ability to insure that the placement is superior to his own home. Indeed, a careful examination of state-of-the-art limitations indicates that, except in cases involving serious harm to the child (actual or imminent), society is generally unable to improve the situation by coercive intervention.

In light of these facts, the system outlined in this volume is grounded on a strong presumption for parental autonomy. Coercive intervention is clearly viewed as the exceptional case, rather than the rule. The standards eschew reliance on formalistic concepts of parental "fault." Instead, the statutory bases for coercive intervention focus on serious, specifically defined harms to the child, actual or imminent. Intervention is authorized when:

1. A child has no parent, guardian, or other adult to whom the child has substantial ties, available and willing to care for him or her;
2. A child has suffered or is likely imminently to suffer physical injury, inflicted nonaccidentally upon him or her by his or her parent, that causes or creates a substantial risk of disfigurement, impairment of bodily functioning, or severe bodily harm;
3. A child has suffered or there is a substantial risk that the child will imminently suffer disfigurement, impairment of bodily functioning, or severe bodily harm as a result of conditions uncorrected by the parents or of the failure of the parents to adequately supervise or protect the child adequately;
4. A child is suffering serious emotional damage, evidenced by severe anxiety, depression or withdrawal, or untoward aggressive behavior toward self or others, and the parents are unwilling to permit and cooperate with necessary treatment for the child;

5. A child has been sexually abused by a member of the household;

6. A child is in need of medical treatment to cure, alleviate, or prevent serious physical harm that may result in death, disfigurement, substantial impairment of bodily functions, or severe bodily harm, and the parents are unwilling to permit the medical treatment; or,

7. A child is committing delinquent acts as a result of parental pressure, encouragement, or approval.

These statutory bases for coercive intervention are of critical importance to the entire system proposed in this report. They represent detailed, carefully considered judgments as to those situations in which intervention will likely improve the situation. Moreover, because they focus on those cases where the risks for nonintervention are greatest, they should help assure that the limited resources available for helping children are concentrated where the needs are greatest.

The standards in this chapter also underscore the paramount importance of considering the child's cultural values at every phase of the intervention process. They emphasize the need for protecting the child's interests when they conflict with those of the parents, for promoting continuous, stable living environments for children, and for encouraging accountability for all decisionmakers.

In recognition of the seriousness of an intervention decision, from both the parents' and the child's viewpoints, standards elsewhere in the report prescribe a number of procedural safeguards for the adjudication process in Endangered Child cases. In line with recent judicial and legislative decisions, these include the right to counsel for parents and child, the right to a formal hearing, and a clear and convincing evidence standard for the endangerment finding.

Related standards in Chapter 14 provide guidelines for the decisions necessary after intervention. To a large degree, the failure of the present system is not so much in its values and goals as in the implementation of these goals. Therefore, the standards governing dispositions and postdispositional monitoring of the endangered child are of particular importance.

For nearly two decades, noted authorities have observed that children removed from their homes and placed in "temporary" foster care often remain there for many years, frequently until their majority. Such children often suffer serious psychological damage in foster care and are commonly subjected to numerous moves—each of which disrupts the child's need for maintenance of continuity and stability in his relationships with parental figures. Therefore, the standards are designed to limit the possibility of unwarranted removal. First, they require that preadjudication removal occur only to protect the child from physical harm and that any pretrial removal be judicially reviewed within 24 hours. With regard to posttrial removal, the standards reject the broad, ill-defined "best interests of the child" formula as the criterion for removal and in its place substitute a more particularized inquiry to discover if removal is necessary to protect the child from the specific harm that precipitated the intervention. Parallel changes are suggested in the criterion for determining whether a child who has been removed from the home should be returned to the natural parents.

In order to avoid the problems of consigning children to long-term, impermanent foster care, the standards mandate judicial hearings to review the status of children in out-of-home placements at least every 6 months. Moreover, subject to specified exceptions, the standards direct that, depending on age, the child should be returned home within 6 months to 1 year or parental rights should be terminated so that the child may attain another permanent family placement.

The standards in this chapter and the related standards in Chapters 12 and 14 must be viewed as an integrated set of policies. The standards for termination are based on the assumption that the standards for initial intervention and removal are adopted. This report strongly urges that an integrated approach be adopted by those using the standards because the costs and benefits of the entire system must change if the standards are taken piecemeal.

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Standard 11.1

Respect for Parental Autonomy

Statutes authorizing coercive State intervention should be based on a strong presumption for parental autonomy in childrearing.

Commentary

A strong presumption for parental autonomy in child rearing recognizes the fundamental rights and responsibilities of parents in caring for their own children. It means that coercive State intervention should clearly be viewed as the exceptional case rather than the rule and that such intervention should occur only when family care falls below certain minimal levels.

A presumption for parental autonomy conforms with our legal and political commitments to privacy, freedom of religion, and diversity of ideas. When coercive intervention is expanded, these important values may be eroded. Extensive State involvement in child rearing may jeopardize the important diversity that is fostered by allowing parents to raise children in accordance with their own particular feelings and beliefs.

The presumption also is warranted by our limited knowledge about the effects of various means of child rearing and the methods to achieve long-term changes in a child's emotional and psychological development. A policy of more active State involvement would require agreement not only on the characteristics desired in children, but also on how parental behavior and the home environment affect the development of favored characteristics. There is no consensus among child development specialists or experts in the behavioral sciences on any of these issues. On the other hand, a system based on parental autonomy does not require judgments about the proper type of home environment or the correct way to raise children. Instead, it merely requires agreement about basic harms from which we wish to protect all children.

Moreover, a presumption for parental autonomy encourages the maintenance of continuity and stability in the child's relation to caretaking adults. It preserves the child's attachment to parental figures. The great importance of such continuity has been consistently underscored by experts in a wide range of professional disciplines.

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Related Standards

The following standards may be applicable in implementing Standard 11.1:

11.4 Consideration of Cultural Values
11.5 Protection of Child's Interests
11.6 Promotion of Continuous, Stable Living Environments

Standard 11.2

Focus on Serious, Specifically Defined Harms to the Child

The statutory grounds for coercive State intervention should be:

1. Defined as specifically as possible;

2. Drafted in terms of specific harms that the child has suffered or may suffer, not in terms of parental behavior; and

3. Limited to those cases where a child is suffering serious harm or there is a substantial likelihood that he or she will imminently suffer serious harm.

Commentary

This standard is closely related to the previous standard regarding parental autonomy. Together, they set forth basic value premises and a general philosophy for coercive intervention on behalf of endangered children.

This standard embodies three interrelated judgments regarding laws authorizing coercive intervention. First, vague or general laws are both undesirable and unnecessary for protecting children. The bases for coercive intervention should be specifically defined and capable of evenhanded application. Second, because the purpose of such intervention is to protect the child, the statutory criteria for State action should be formulated not in terms of parental behavior but in terms of specific harms that the child has suffered or may suffer. Third, coercive State intervention should be limited to those cases where it will likely improve the situation. This is achieved by intervening only in the face of serious harm to the child.

Specific Definition

As recognized by all commentators, virtually all current State neglect statutes are drafted in broad, vague terms. Current laws generally authorize intervention to protect children from "unfit homes" or lack of proper parental care. This standard rejects reliance on such vague terminology and calls for a specific delineation of the statutory bases for coercive intervention.

Broadly drafted laws facilitate arbitrary intervention. In the absence of specifically drawn statutes, decisionmaking is left to ad hoc analyses by judges and social workers. Unfortunately, as such prestigious groups as the President's Commission on Law Enforcement and Administration of Justice have recognized, these officials often lack specialized training in child psychology and other relevant disciplines. As a result, their decisions sometimes reflect their personal views about child rearing. Thus, nonspecific laws result in unequal treatment and encourage the imposition of middle class values on lower class families. Such laws also bring about intervention that may remove children from environments in which they are developing adequately. Children often form strong emotional attachments to adults, who, from a middle class perspective, may be very bad parents. In such cases, efforts to "save" the child may prove extremely harmful to the child's emotional and psychological development.

Moreover, general laws are undesirable because if there are no specific criteria for initial judicial involvement, then there is simply no basis for measuring the success or failure of the intervention. As a result, broadly based laws facilitate a general lack of accountability. To evaluate the success of an action and to insure that the decisionmaker is accountable for his or her judgment, the harm the action was intended to correct must be clearly and specifically defined. When intervention proceeds on a nonspecific basis, however, it is simply impossible to evaluate the propriety or the success of the intervention effort.

Finally, from the perspective of the parents, the importance of the decision to intervene coercively, with its potential for removing the child from the home, cannot be treated lightly. Any system of intervention involves value judgments about the types of harm that justify coercive action. Under nonspecific laws these judgments are made by individual judges. However, in a democratic system, decisions as to the types of harm that justify intervention are more appropriately viewed as a legislative concern. For one thing, the legislature has access to greater expertise than the court. For another, decisions of this magnitude should be made in an open forum after careful deliberation by a responsible political body.

Focus on Specific Harms to the Child

Neglect laws have traditionally defined the bases for intervention primarily in terms of parental behavior rather than specific harms that the child has suffered or may suffer. These standards explicitly repudiate that approach. Extensive evidence from experts in child development demonstrates that it is extremely difficult to correlate parental behavior to specific detriment to the child. This is especially true if one is trying to predict long-term harm to the child's development. In his recently completed three-volume comprehensive review of existing studies, Harvard psychologist Sheldon White states:

> Neither theory nor research has specified the exact mechanisms by which a child's development and his family functioning are linked. While speculation abounds, there is little agreement about how these family functions produce variations in measures of health, learning, and affect. Nor do we know the relative importance of internal (individual and family) versus external (social and economic) factors. (*Federal Programs for Young Children: Review and Recommendations*, Vol. 2, page 240.)

The limitations of our predictive capability mean that the dangers of intervention that may prove damaging to the child are increased by laws that focus primarily on parental conduct. Because the purpose of State intervention is to protect the child, society should concentrate directly on harm to the child in determining whether to authorize coercive action.

Focusing on specific harms the child has suffered or may suffer also facilitates the formulation of proper intervention strategies. In many cases, children are genuinely endangered, and casework services or other approaches should certainly be employed for their protection. However, in the absence of a demonstration of specific detriment to the child, intervention may proceed on the basis of guesswork or conjecture about a wide range of possible harms. Laws that focus the attention of decisionmakers on specific harms to the child pave the way to the selection of the most efficacious intervention procedure. Moreover, they insure that our limited resources will be utilized more efficiently because they will be concentrated in areas of demonstrated harms.

By contrast, laws that focus principally on parental actions can too easily become punitive regulations of adult behavior. As a result, intervention may occur even when there is no evidence that the indicted behavior has affected the child in any way.

> It is unlikely that child-neglect laws can be used successfully to enforce social norms that society in general cannot enforce. More importantly, it is inconscionable to use children as pawns to achieve these ends. [Wald, State Intervention on Behalf of "Neglected" Children: A Search for Realistic Standards, 27 *Stan. L. Rev.* 985, 1034 (1975).]

Limitation to Serious Harm

A realistic evaluation of both past performance and the current state-of-the-art indicates that, except in cases involving serious harm, society is often incapable of improving a child's situation. It is now well established that continuity and stability of relations with parental figures are of critical importance to the child's development. Such noted authors as Joseph Goldstein, Anna Freud, and Albert Solnit conclude that "so far as the child's emotions are concerned, interference with [parental] tie[s] whether to a 'fit' or 'unfit' psychological parent, is extremely painful." [J. Goldstein, A. Freud, and A. Solnit, *Beyond the Best Interests of the Child*, 20 (1973)]

Thus, removing a child from his or her family can cause serious psychological trauma. This damage may be of even greater severity than the harm intervention was intended to avert. Not only is separation damaging in itself, but society is often unable to insure that a child's new placement will be any better than his or her own home. Children in foster homes are frequently subjected to numerous moves, and the mere act of placement can generate significant psychological difficulties. The existing data make the Task Force skeptical about relying extensively on foster care as a means of protecting endangered children.

Intervention programs that do not entail removal from the home can likewise be damaging. The presence of outsiders often can prove threatening to the child's perception of the stability of his or her relations with his or her parents. In addition, the state-of-the-art limitations on such practices as individual and group counseling or parent education programs are considerably compounded when such services are offered coercively to unwilling clients.

Thus, despite laudable intentions, current coercive intervention practices may place a child in a more detrimental situation than he or she would have been in without the intervention. To avoid this, the scope of coercive intervention should be narrowed to include only those cases where a child is suffering or there is a substantial likelihood that he or she will imminently suffer serious harm. Such a strategy means that the limited resources available for helping children will go to helping those in the most danger. Intervention will be concentrated where the risks of nonintervention are greatest.

The proposed standard authorizes intervention where the child has suffered or there is a substantial likelihood that he or she will imminently suffer serious harm. In this standard, "substantial likelihood" means real and considerable probability. "Imminently" refers to that which is impending or threatening to occur in the near future, namely, harms that will occur within days or weeks, not months or years. This standard in no way rejects the philosophy that society should attempt to prevent neglect and abuse as well as respond to them when they have actually occurred. And the standard certainly does not preclude the offering of services on a voluntary basis to all families who desire them. Indeed, expansion of such programs should be strongly encouraged. However, for purposes of coercive intervention it must be recognized that there are very serious limitations on our capacity to predict long-term harm to the child.

> In the absence of scientific certainty it must be borne in mind that the farther back from the point of imminent danger the law draws the safety line of police regulation so much greater is the possibility that legislative interference is warranted. [E. Freund, *Standards of American Legislation* 83 (1917).]

This standard does not require waiting until a child has actually suffered a serious injury. If a substantial danger of imminent harm can be demonstrated, intervention would be authorized. Examples of the types of cases that would be covered by these criteria are set forth in the commentaries to Standards 11.9 through 11.15.

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Related Standard

The following standard may be applicable in implementing Standard 11.2:

11.8 through 11.16 (Statutory Bases for Coercive Intervention)

Standard 11.3

Elimination of Fault as a Basis for Coercive Intervention

Fault concepts should not be considered in determining the need for, or type of, coercive State intervention.

Commentary

Many State statutes make a showing of parental "fault" a prerequisite to coercive intervention or to other actions, such as termination of parental rights. As a result, courts sometimes are unwilling to intervene to assist an endangered child where parental culpability cannot be shown.

If, for example, a child is endangered, not because the parent is blameworthy, but because the parent is mentally ill, a court may be understandably hesitant to act when the relevant statute requires a demonstration of parental "fault." Likewise, if a child is repeatedly injured while under the supervision of his or her parents, but there is no direct evidence of parental abuse, a court may feel that its ability to act is frustrated by such a statutory formulation.

In a system intended to protect endangered children, such reliance on formalistic legal concepts is inappropriate. Statutory language referring to parental "fault" should be abolished. Intervention should be a nonpunitive act. The objective of helping parents protect their children will be furthered if intervention does not require that the parents be labeled blameworthy or made to feel so.

It should be emphasized, however, that eliminating reliance on parental "fault" in no way authorizes coercive intervention based on parental poverty or on conditions beyond parental control. A parent's inability to care properly for a child because of financial or social problems should be a basis for providing voluntary services. But it should not be a basis for authorizing coercive intervention.

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Related Standards

The following standards may be applicable in implementing Standard 11.3:

11.8 through 11.16	(Statutory Bases for Coercive Intervention)
14.32	Postdispositional Monitoring of Endangered Children—Termination of Parental Rights

Standard 11.4

Consideration of Cultural Values

Standards for coercive State intervention should take into account cultural differences in child rearing. Decisionmakers should examine the child's needs in light of his or her cultural background and values and should take cognizance of the child's needs for continuity of cultural identity at every phase of the intervention process.

Commentary

This standard further develops the value premise favoring parental autonomy set forth in Standard 11.1. In order to protect the child, it is extremely important that all decisionmakers recognize the cultural pluralism and social and ethnic diversity of child rearing practices inherent in our society. Otherwise, there is a substantial possibility that intervention will prove harmful to the child.

This caveat is relevant to every phase of the process of coercive intervention. Its applicability to two critical decision points deserves particular emphasis. In some cases the standard means that initial coercive involvement may not be justified, even though the natural parents' care of the child is inadequate in some respects. For example, in some cultural groups members of the extended family or other adults living in the same vicinity but having no blood relationship to the child assume major child rearing roles. In such cases the parents themselves may not be providing adequate protection from physical injury, but these other adults are protecting the child. In such instances intervention may disrupt these relationships and thereby damage the child.

When the dispositional order requires a family to accept casework supervision or removes a child from the home, maximum efforts should be made to preserve the child's cultural heritage and identity. Decisionmakers should be sensitive to the fact that discontinuities of language or of the culturally based dynamics of family relationships can prove very traumatic to the child.

These are just two areas illustrating the need to evaluate the child's well-being in terms of the cultural setting. To adhere to this standard, every agency should develop procedures to insure that agency policies are sensitive to the cultural background of the children served and to insure that important cultural values are not overlooked in decisionmaking.

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Related Standards

The following standards may be applicable in implementing Standard 11.4:

11.1 Respect for Parental Autonomy
11.6 Promotion of Continuous, Stable Living Environments

Standard 11.5

Protection of Child's Interests

Although coercive State intervention should promote family autonomy and strengthen family life whenever feasible, in cases where a child's needs as defined in these standards conflict with parents' interests, the child's needs should be protected.

Commentary

As the first portion of this standard indicates, the objective of coercive State intervention should be to preserve family units and enhance the social and emotional bonds of the family wherever feasible. However, situations will arise where the needs of the child cannot be protected in a manner acceptable to the parents or by preserving the family unit. In such cases, the standard directs the court to give first priority to protecting the child's needs.

The preservation of family ties is widely proclaimed as the objective of present child welfare systems. But in actual practice these systems frequently contribute to dissolving family bonds rather than strengthening them. For example, fiscal policies often concentrate almost exclusively on children who have been removed from their homes instead of directing funds to inhome service programs designed to avert the need for such removal. This standard requires that such policies be reevaluated and altered to insure that the objective of strengthening family life becomes a reality rather than a rhetorical plea.

At the same time, it must be recognized that not all family situations can be made viable for the child. When a child cannot be protected at home, it may be necessary to remove the child from the home and perhaps terminate parental rights at some point. But under present law, courts are often reluctant to recognize that a family unit cannot be preserved or reconstructed.

These standards recognize that the child is a helpless party who may need State protection from a situation being created by his or her parents. Although the parents may not be in any sense morally blameworthy for their inadequacy, the standards reflect the value judgment that they should suffer the consequences of the inadequacy rather than the child. Therefore, when family ties cannot be maintained, the standard directs that all further decisions focus solely on the child's needs. By protecting the child from serious physical or emotional damage society can probably increase the likelihood that the child will turn out to be an adequate parent.

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Related Standards

The following standards may be applicable in implementing Standard 11.5:

11.1 Respect for Parental Autonomy

12.9 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home

14.32 Postdispositional Monitoring of Endangered Children—Termination of Parental Rights

Standard 11.6

Promotion of Continuous, Stable Living Environments

The entire system of coercive State intervention should be designed to provide children, to the maximum degree possible, with continuous, stable living environments. Decisionmakers should take cognizance of this objective at every phase of the intervention process, from initial coercive involvement to proceedings for termination of parental rights.

Commentary

Virtually all experts in child development and the behavioral sciences agree that a continuous, stable living environment is extremely important to the child's development. Despite this concensus, extensive evidence indicates that under present practice children are frequently denied continuity following State intervention.

If continuity is to be fostered, it is essential that the promotion of ongoing relationships be a major objective of every phase of the intervention process. Moreover, it should be recognized that there are many elements to the child's environment: parents, other relatives, parental surrogates, language and culture, and ethnic identity. The standard directs decisionmakers to recognize the need for continuity in all of these areas.

A number of standards in this report recommend specific mechanisms to facilitate the objective outlined in Standard 11.6. In light of the child's needs for continuity, the provision of inhome services to protect the child should be viewed as the preferred alternative, and society should be reluctant to remove children from homes where they have stable attachments. Accordingly, Standards 14.25 through 14.29 outline a variety of intervention strategies and specifically limit the grounds for removal. It should also be emphasized that if removal is necessary, Standard 14.29 requires that concerted efforts be made to maintain parent-child contact through visitation procedures.

In those cases where a child cannot be returned home, the child's needs for continuity and stability require that every effort be made to provide another permanent home, not a series of foster placements. In recognition of these needs, Standards 14.30 through 14.32 require periodic review of the status of children in placement and outline procedures to insure that children in foster care are either returned home in a reasonable time or freed for placement in another stable environment, such as adoption.

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Related Standards

The following standards may be applicable in implementing Standard 11.6:

11.4 Consideration of Cultural Values

14.25 and 14.29 (Endangered Child Dispositions)

14.30 through 14.32 (Postdispositional Monitoring of Endangered Children)

Standard 11.7

Encouraging Accountability

The entire system of coercive State intervention should be designed to insure that all agencies and branches of government including courts, participating in the intervention process, are accountable for all of their actions. Decisionmakers should be required to specify the bases for their actions and mechanisms should be established to review important decisions.

Commentary

This standard outlines a concept of vital importance to the success of all other standards regarding endangered children proposed in this report. Although it may seem unnecessary to state that courts and government agencies and agents should be accountable for their actions, the lack of accountability in our present child welfare systems requires that this objective be emphasized.

Under present practice, coercive intervention is an extremely low-visibility process. Courts and social work agencies have enormous discretionary power to intervene coercively in family life without specifying the bases for their decisions. This includes taking such drastic steps as removing the child from the home. Furthermore, in many cases, the judiciary has largely abdicated its responsibilities to endangered children and delegated them to social service agencies.

To a large extent, the success of any intervention depends on the availability of sufficient high quality resources. Unfortunately, such services often are unavailable. In most jurisdictions social service agencies are understaffed and must rely on inexperienced, untrained personnel. In addition, caseloads are typically very large and the turnover rate among caseworkers is frequently very high. In fact, numerous studies indicate that in at least some States many youngsters brought into the child care systems are basically ignored by State agencies—epecially if they enter foster care.

If the basic purposes of the family court system are to be served, it is essential that adequate services and performances be guaranteed. Although no system can function adequately without sufficient funding, money alone will not solve the problems. It is also necessary to have mechanisms to insure that each part of the system is, in fact, performing adequately.

The standards as a whole contain a variety of such mechanisms. Standards 11.8 through 11.15 specifically define the permissible bases for coercive State involvement. Coercive intervention is allowable only if the basis for the action is one specified in these standards. Removal is authorized only in accordance with the particularized guidelines set forth in Standard 14.27. Provisions for periodic review are outlined in Standard 14.30, which mandates review of the status of all children in placement at required intervals not to exceed 6 months. Standard 14.31 prescribes detailed criteria for returning children to the home. And guidelines for important decisions regarding termination of parental rights are set forth in Standard 14.32.

The procedures outlined in this volume are in no sense exhaustive. Additional machinery for insuring accountability should also be developed. For example, numerous commentators have advocated that grievance officers should be established to review complaints regarding agency services. Other suggestions for enhancing accountability should be explored and implemented whenever feasible.

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6. Levine, Richard. "Cavaet Parens: A Demystification of the Child Protection System," *University of Pittsburgh Law Review*, Vol. 35 (Fall 1973).

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9. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 11.7:

Standards 11.8 through 11.16 (Statutory Bases for Coercive Intervention)
12.9 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home
14.27 Endangered Children—Removal of the Child From the Home
14.30 Postdispositional Monitoring of Endangered Children—Periodic Review Hearings
14.31 Postdispositional Monitoring of Endangered Children—Return
14.32 Postdispositional Monitoring of Endangered Children—Termination of Parental Rights

Standard 11.8

Statutory Bases for Coercive Intervention

Courts should be authorized to assume jurisdiction, in order to condition custody upon the parents accepting supervision or to remove a child from the home, only when the child is endangered in a manner specified in Standards 11.9 through 11.15.

Commentary

This standard provides that coercive intervention may occur only if the court finds that the child comes within one or more of the statutory criteria outlined in Standards 11.9 through 11.15. However, that a case falls within one of these categories is in itself not a sufficient basis for authorizing coercive intervention. The court also must find, pursuant to Standard 11.16, that the proposed intervention constitutes a less detrimental alternative.

The statutory grounds for coercive intervention are critical to the structure of the entire system proposed in this report. They establish the philosophy and value framework for all other decisions. They tell courts when they may assume jurisdiction over the family. They also inform child protective service agencies when they may investigate an allegation that a child is endangered. Thus, they provide specific limits on the nature and extent of coercive State action.

In specifying the categories of harm that justify intervention, the proposed standards follow the general principles embodied in Standard 11.2; i.e., that the definition of harm focus on the child and that intervention be authorized only in the face of serious harm and if coercive State involvement could likely improve the situation. Thus, not every type of harm from which society might wish to protect children constitutes a basis for coercive intervention.

A realistic assessment of the limited resources available for helping children and the current state of the art impels the conclusion that society is unable to protect children from all harms. Few families provide children with ideal environments. If coercive intervention were permissible because the home lacked adequate affection, because the home was dirty, or because the parents provided less stimulation than desirable, intervention would be pervasive, indeed. Yet there is every reason to believe that intervention to protect from such "harms" would more often be detrimental than useful to the child. Moreover, from the child's perspective the cost of such "protection"—especially if removal is the only alternative—is frequently greater than the "harm" society is trying to correct.

The proposed criteria focus primarily on the child's physical well-being, although intervention is permitted in very limited circumstances where a child is suffering emotional damage. Thus, the standards attempt to strike a middle ground between those proposals that would limit intervention solely to cases of physical abuse and those proposals that support coercive State involvement under essentially open-ended criteria based on denial of optimal development.

The proposed standards specifically omit language authorizing coercive intervention because a child is living in an "unsuitable home," a dirty home, an "immoral" home environment, or with parents who are "inadequate." As previously noted in Standard 11.2, all of these terms facilitate overintervention, often on an arbitrary basis, without any evidence of harm to the child. The only way to insure that coercive intervention truly helps childlren is to focus on them, not on their parents. Parental behavior is relevant only insofar as it causes or is likely to cause a specific harm to the child.

Although the proposed standards attempt to define each ground for coercive intervention as specifically as possible, they all leave some room for interpretation and expansion. Therefore, it is essential that the standards be read and administered in light of the central goals established for the entire system: (1) to respect parental autonomy and preserve family units whenever possible; (2) to limit intervention to cases where there is substantial reason to believe that intervention is both necessary to protect the child and will in fact benefit the specific child; (3) to eschew reliance on formalistic conceptions of parental "fault;" (4) to recognize cultural and ethnic differences in child rearing; (5) to protect the child's interests to the maximum feasible extent; and (6) to encourage accountability of all decisionmakers.

Finally, it should be kept in mind that each of these standards authorizes but does not require a court to intervene. And, where intervention is appropriate it may take many forms—only one of which is removal of the child from the family. The grounds for removal are strictly limited by Standard 14.27.

References

1. Gil, David. *Violence Against Children.* Cambridge, Mass.: Harvard University Press, 1970.

2. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children.* New York: Institute of Judicial Administration (tentative draft 1976).

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Related Standards

The following standards may be applicable in implementing Standard 11.8:

11.2 Focus on Serious, Specifically Defined Harms to the Child

11.9 through 11.15 (Statutory Bases for Coercive Intervention)

11.16 Intervention Under These Standards

Standard 11.9

No Caretaking Adult

Coercive State intervention should be authorized when a child has no parent or guardian or other adult, to whom the child has substantial ties, available and willing to care for him or her.

Commentary

This standard is intended to cover those cases that are traditionally handled as abandonment. Obviously, the court must be authorized to intervene in cases where there is no adult caretaker available to provide for the child.

However, it should be noted that the scope of this jurisdictional criterion is perhaps more restrictive than some current State laws on abandonment. These standards seek to preserve continuity in the child's relationships with parental figures. But in some cases, children are entrusted to the care of members of the extended family or other adults who have no legal or blood relationship with the child. Hence, the absence or complete breakdown of the parental relationship per se would not justify coercive intervention in all cases. The proposed standard requires that there be no parent, guardian, or other adult to whom the child has substantial ties available and willing to care for the child. If a child has an ongoing relationship with an adult who is not a biological parent but who has actually been performing the caretaking role—and the child is not otherwise endangered under these standards—coercive intervention should be disallowed.

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3. Katz, Sanford; Howe, Ruth-Arlene; and McGrath, Melba. "Child Neglect Laws in America," *Family Law Quarterly,* Vol. 9 (Spring 1975).

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Related Standards

The following standards may be applicable in implementing Standard 11.9:

11.4 Consideration of Cultural Values

11.6 Promotion of Continuous, Stable Living Environments

11.16 Intervention Under These Standards

Standard 11.10

Nonaccidental Physical Injury

Coercive State intervention should be authorized when a child has suffered or is likely imminently to suffer a physical injury, inflicted nonaccidentally upon him or her by his or her parent, that causes or creates a substantial risk of disfigurement, impairment of bodily functioning, or severe bodily harm.

Commentary

This standard authorizes coercive intervention if a child has been physically abused by a parent or other caretaking adult. It covers cases where the adult has inflicted bodily injury on the child in a nonaccidental manner. However, intervention is justified only if the conduct results in disfigurement, impairment of bodily functioning, or severe bodily harm or creates a substantial risk of such an injury.

Instances of physical abuse present probably the clearest case for coercive intervention. There is obviously a consensus that children should be protected from maiming or severe bodily injury. Thus, all States presently provide statutory authorization to intervene to protect children from nonaccidental physical injury.

There are, however, difficulties with intervening on this basis. Very few statutes presently define the types of injuries that justify intervention. Yet there are significant gradations in the types of harms that might result from intentionally striking a child. A recent nationwide survey found that more than half of the reported cases of physical abuse of children involved only minor bruises or abrasions that did not require treatment. Because intervention may be inappropriate in many such situations, the standard provides a more specific definition of physical abuse. It limits intervention to cases of actual or potential serious damage.

This definition seeks to distinguish between cases of physical discipline that pose a threat of severe or permanent damage and cases that do not pose such a threat even if they result in minor bruises. This does not imply acceptance of corporal punishment as a means of discipline. Rather it reflects the judgment that even in cases of physical injury, unless the actual or potential injury is serious, the negative impacts of coercive intervention will likely outweigh its beneficial effects. When intervention occurs, family relations may be significantly disrupted by the trauma of court appearances, social worker visits, compulsory psychiatric examinations, and short- or long-term removal of the child. Society should clearly accept these costs if the beating resulted in serious injury or threatened to do so. But such infringements on family autonomy should not be authorized solely to prevent physical punishment unless the manner in which the child was punished or injured generates legitimate concern about the future safety of the child.

The standard does not limit coercive intervention solely to cases of actual serious injury. It also authorizes intervention based on the substantial risk that the adult's actions may cause or are likely imminently to cause such an injury. For purposes of this standard "substantial risk" denotes genuine and considerable chance or hazard, and "imminently" refers to that which is impending or threatening to occur in the near future.

> While courts should certainly be extra cautious in intervening when a child has not actually suffered serious injury, they should not be required to stand by and wait, when future danger is likely, until the child dies or suffers more severe injury. [Wald, State Intervention on Behalf of "Neglected" Children: A Search for Realistic Standards, 27 *Stan. L. Rev.* 985, 1012–13 (1975).]

Thus, for example, if a parent throws an infant against a wall, but the infant fortunately sustains only minor injuries, we should obviously not wait until the child is injured again before intervening coercively.

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2. Gil, David. *Violence Against Children*. Cambridge, Mass.: Harvard University Press, 1970.

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Related Standards

The following standards may be applicable in implementing Standard 11.10:

11.2 Focus on Serious, Specifically Defined Harms to the Child

11.16 Intervention Under These Standards

Standard 11.11

Physical Injury From Inadequate Supervision or Protection

Coercive State intervention should be authorized when a child has suffered or there is a substantial risk that the child will imminently suffer disfigurement, impairment of bodily functioning or severe bodily harm as a result of conditions uncorrected by the parents or by the failure of the parents to adequately supervise or protect the child.

Commentary

Standard 11.10 covers situations where a child is endangered by intentional physical abuse by a caretaking adult. This standard covers situations where a child is physically endangered to the same degree as in Standard 11.10, but where the danger is created by the caretaker's failure to protect or supervise the child adequately or by home conditions so dangerous that they pose an immediate threat to the child.

Under present practice, inadequate home conditions or failure to protect a child constitutes one of the most frequent bases for coercive intervention. But existing statutes do not require that the parental inadequacy or home conditions be related to a specific harm to the child. Therefore, intervention is often premised on the possibility, not the likelihood, of harm. In some instances, intervention may be prompted by a social worker's repugnance with regard to homes that are dirty, though not unsafe. In other cases, intervention may entail substituting a judge's view of child rearing for that of the parents on an issue such as the age at which a child may be left alone safely or at which an older child can care for a younger sibling. In contrast, this standard focuses on the child's physical well-being and authorizes intervention only in the face of serious, specifically defined harms.

Under this standard, if the injury has actually occurred, intervention proceeds for the same reason as in physical abuse cases and prediction of long-term harm is not an issue. However, where actual injury has not occurred, the hazards of prediction are substantial and the potential for unwarranted and harmful intervention is increased. This standard addresses these difficulties by authorizing intervention in the absence of serious physical harm only in those cases where there is a substantial risk that the child will imminently suffer disfigurement, impairment of bodily functioning, or severe bodily harm as a result of conditions uncorrected by the parents or of the parents' failure to supervise or protect the child adequately. Explanations of substantial risk and imminently found in the commentary to Standard 11.10 are applicable to this standard as well.

The following examples illustrate the types of cases that fall within the bounds of this standard:

Example No. 1: A 5-year-old child is regularly left to wander the streets late at night. The parent knows of the problem and takes no action. Intervention is permissible.

Example No. 2: The home of a 3-year-old child contains a high voltage wire that is left exposed despite the fact that the parent has been made aware of the problem and given the resources to correct it. Intervention is permissible.

Example No. 3: A small child is severely beaten by a babysitter. The parents dismiss the sitter and take steps to insure the adequacy of future caretakers. Intervention is not permissible.

Example No. 4: An infant is repeatedly left unattended for extended periods of time because of the parent's mental illness or drug addiction. Intervention is permissible.

In general, the standard focuses on harms generated by the caretaker's unwillingness to correct a dangerous situation. It is not intended to cover situations created by "community neglect," or environmental conditions beyond the parent's control. For example, if a family lives in a very dangerous tenement, but no other housing is available, or if a child is being regularly beaten up by neighborhood children and the parent is trying unsuccessfully to prevent such occurrences, services may be offered to help the parent. But these should be on a voluntary basis.

Unfortunately, some children are endangered because of poverty and the consequent inability of their parents to provide them basic protection and necessities. However, it is wrong to rely on endangered child laws in sporadic and uncoordinated attempts to remedy societal neglect of the poor. The issue of poverty and its associated negative impact on children must be faced directly. Energetic efforts to improve the plight of children in bad environments should come through generally available social programs, not endangered child proceedings.

On an interim basis, the foregoing analysis should be subject to one qualification. At present, a number of statutes restrict financial help to wards of a court. Thus, the only way to provide needed services may be if the child is brought under court jurisdiction. These laws should be changed. But until such reforms occur, a court might still take jurisdiction under this standard to provide services. In such cases, removal would be barred. (See Standard 14.27).

References

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Related Standards

The following standards may be applicable in implementing Standard 11.11:

11.2 Focus on Serious, Specifically Defined Harms to the Child
11.10 Nonaccidental Physical Injury
11.16 Intervention Under These Standards

Standard 11.12

Emotional Damage

Coercive State intervention should be authorized when a child is suffering serious emotional damage, evidenced by severe anxiety, depression or withdrawal, or untoward aggressive behavior toward self or others, and the parents are unwilling to permit and cooperate with necessary treatment for the child.

Commentary

This standard allows intervention when the child is suffering specified types of serious emotional damage and the parents are unwilling to permit and cooperate with necessary treatment for the child. It does not require proof that the parents' behavior is causally connected to the child's emotional problems.

Whether emotional damage should constitute a basis for Endangered Child jurisdiction is one of the most controversial issues regarding the grounds for coercive intervention. A number of commentators have criticized the failure of most present statutes to include emotional neglect explicitly among the harms justifying intervention. They argue that children can be at least as badly harmed emotionally as physically and that the long-term consequences of emotional damage may be even greater than those from physical abuse. They indicate that a substantial body of evidence shows that children suffering from serious emotional disturbances early in their lives often display later mental illness or antisocial behavior.

On the other hand, other experts believe that coercive intervention should not be permitted for emotional neglect. They argue that because of the great difficulty in formulating a workable definition of the term "emotional damage," any such ground will be subject to widely varied interpretation and will open the way to unwarranted intervention. And even if society could provide a reasonable definition, the knowledge and resources to intervene successfully in a coercive manner are lacking. Furthermore, effective treatment generally requires parental involvement or cooperation, and this can best be obtained voluntarily.

There is undoubtedly substantial merit to the claims of commentators on both sides of the issue. All commentators recognize the dangers of emotional harm to the child. On the other hand, they also recognize the substantial possibility of misuse of this ground for intervention. This standard tries to resolve these difficulties by allowing intervention to protect children who are evidencing serious emotional damage while limiting the possibility of unwarranted intrusion by defining serious emotional damage specifically and narrowly. Intervention is permitted when a child evidences severe anxiety, depression or withdrawal, or untoward aggressive behavior toward self or others, and the parents are unwilling to permit and cooperate with necessary treatment.

This definition delineates specific symptoms that have a fairly well-defined meaning to mental health professionals. These particular symptoms were selected after a review of the literature on child development and after extensive discussions with pediatricians, psychoanalysts, psychiatrists, psychologists, and social workers. Although other symptoms could undoubtedly be selected in lieu of or in addition to those specified, the Task Force believes that these criteria afford a viable operational definition of emotional damage without providing an open-ended basis for intervention.

The application of these criteria will entail heavy reliance on mental health professionals. Courts should require that their testimony take into account developmental differences in children and the appropriateness of any behavior to the child's environment. Thus, for example, a child in an inadequate school or dangerous neighborhood might be quite appropriately anxious, depressed, or even hostile.

It is hoped that the definition will place sufficient restraints on expert testimony and judicial decision-making so that decisions will not be based solely on individual views or "folk psychology" regarding proper child development. It should, however, be recognized that in practice this definition may prove either too broad or too narrow. Therefore, these standards should not be considered frozen. Periodic review to see how they are working and to incorporate new knowledge is essential.

This standard does not require that the emotional damage be caused by parental conduct. If a child evidences serious damage and the parent is unwilling to permit help, intervention is justified regardless of the cause of the harm. On the other hand, parental willingness to permit treatment will almost always constitute a bar to coercive intervention. The parent should generally be able to select the treatment. The standard does, however, require that the parent permit and cooperate with necessary treatment. The latter requirement is intended to insure coverage of those cases where it is obvious to all concerned that the parents themselves are the sole cause of the child's problems and despite their pro forma assent to the child's treatment, they are unwilling to make meaningful efforts to solve the problem.

The definition also limits intervention to situations where the child is actually evidencing the symptoms. The standard focuses on the child's behavior and is concerned with short-term, not long-term predictions. Without actual damage it is extremely difficult to predict the likely future development of the child or to assess the impact of intervention efforts. Moreover, given the limited resources available to help those children suffering emotional damage whose parents request help, it is extremely unwise to permit intervention where the damage is speculative and the needed services may well be unavailable.

References

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3. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," *Stanford Law Review*, Vol. 27, (April 1975).

4. White, Sheldon. *Federal Programs for Young Children: Review and Recommendations*, Vol. 2. Washington, D.C.: Government Printing Office, 1973.

Related Standard

The following standard may be applicable in implementing Standard 11.12:

11.16 Intervention Under These Standards

Standard 11.13

Sexual Abuse

Coercive State intervention should be authorized when a child has been sexually abused by a member of the household.

Commentary

Perhaps the most universally condemned behavior of a parent or other family member toward a child involves sexual abuse of the child. Although studies on the negative impact of such sexual behavior have rendered diverse findings, at least three factors unique to cases of this nature impel the conclusion that intervention on this basis should clearly be authorized.

First, a number of studies have demonstrated that sexual abuse is usually only one of several negative factors operative in families where this conduct occurs. The studies report that the father often has also physically beaten or terrorized the child. Even though the home situation might not justify intervention if there were no sexual misconduct, the added problems caused by the charges of sexual abuse justify singling these families out for special attention. Because reported cases of sexual misconduct among family members are relatively rare, this would not open the door to extensive State intrusion.

Second, although the behavior may have been condoned by both parents and acquiesced in by the child prior to the time it became public knowledge, the fact that the sexual conduct has been reported undoubtedly drastically alters the situation. The child is now likely to feel guilt or shame. Therefore, it may be essential to intervene in order to assess the impact of the discovery on the child and to insure that the conduct is discontinued.

Finally, sexual abuse cases involve a factor not generally prevalent in other situations: the likelihood of a criminal prosecution against the parent. Such proceedings can be extremely harmful to the child. Filing charges means that the child will have to undergo the trauma of interviews and testifying. In many cases, additional pressure is created by the parents who encourage the child not to cooperate with the prosecuting authorities. Furthermore, criminal prosecution will often result in the parent's imprisonment. This may simply add to the child's problems. Such imprisonment may create serious guilt feelings for the child. Moreover, several recent studies indicate that such action may preclude effective treatment because meaningful therapy often has to involve the entire family.

Although Endangered Child charges may likewise prove traumatic for the child, the chances are greater that the negative effects can be avoided or minimized in an Endangered Child hearing rather than in a criminal proceeding. The entire focus of Endangered Child proceedings will likely be less punitive and more treatment-oriented than a criminal prosecution. Interviews can be conducted by social workers, accustomed to dealing with children, rather than prosecutors. Without the threat of criminal sanctions, the parents may choose not to contest the charges. The lower standard of proof in an Endangered Child proceeding may make it unnecessary for the child to testify. Finally, the court in an Endangered Child proceeding is specifically concerned with the child's well-being and open to a greater range of dispositions than the criminal court.

Therefore, criminal charges for sexual abuse by parents or other family members should be utilized only in extremely rare cases, if at all. From the child's perspective, the availability of Endangered Child proceedings, which focus directly on protecting the child, eliminate the need for criminal prosecutions.

The proposed standard does not define sexual abuse. It is intended that intervention be authorized whenever the subject action would constitute a violation of the relevant sections of the State penal code (or would have been a violation if those laws have been repealed). Although it is true that as a factual matter it may sometimes be difficult to distinguish between appropriate displays of affection and fondling or other behavior possibly disturbing or damaging to the child, reliance on the definition of penal laws should suffice because only the most severe types of behaviors are ordinarily reported.

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Related Standard

The following standard may be applicable in implementing Standard 11.13:

11.16 Intervention Under These Standards

Standard 11.14

Need for Medical Care

Coercive State intervention should be authorized when a child is in need of medical treatment to cure, alleviate, or prevent serious physical harm that may result in death, disfigurement, substantial impairment of bodily functions, or severe bodily harm and the parents are unwilling to permit the medical treatment.

Commentary

This standard authorizes coercive intervention to secure medical treatment when such care is required to cure, alleviate, or prevent the child's suffering serious physical harm and his or her caretakers refuse to permit the needed treatment. The standard differs from Standards 11.10 and 11.11 in that the harm is neither intentionally inflicted nor the result of the caretakers' failure to supervise or protect the child adequately. Cases under this standard involve medical problems related to disease, accidental injury, or physical defects.

The cases arising under this standard generally involve issues quite dissimilar from those involved in cases arising under Standards 11.10 and 11.11. For example, the parents' refusal to permit treatment may rest on constitutional claims or on the claim that the proposed medical treatment is too dangerous. Because of the unique nature of the issues to be decided, this standard provides a separate jurisdictional category to alert the court to the special nature of the problem.

At present, many States authorize judicial intervention when a parent fails to provide a child with adequate medical care. However, these statutes typically offer little guidance as to when intervention is justified. Usually, the statutes refer only to the general obligation to provide necessary medical treatment. Often courts have interpreted the statutes narrowly and refused to intervene unless the child faced death.

This standard provides more specific guidelines for cases in this area. Courts should abstain from intervention unless the possible harm is very serious. However, courts are not required to abstain until the child is threatened with death. Any injury that may result in disfigurement, substantial impairment of bodily functioning, or severe bodily harm would justify intervention.

Many cases arising under this standard involve parents who refuse to assent to an operation or blood transfusion on religious grounds. In the past, virtually all courts have overruled the constitutional objections when the child is threatened with death. Although the case law is not definitive, this standard assumes that there are likewise no constitutional impediments to intervention in cases involving other types of serious harm.

Nonetheless, the basis of the parents' objections, whether religious or a concern that the operation is too dangerous, should be carefully considered by the court in deciding whether to order medical treatment. In every case, the court must weigh the risk involved to the child both by intervening and by not intervening. Absent clear and convincing evidence to the contrary, it is reasonable to assume that the parent is particularly sensitive to the child's needs. Moreover, when intervention entails authorizing an operation or ordering a program of continuing care, parental cooperation and support may be essential to the success of the treatment. Therefore, the parental judgments should be accorded substantial deference.

In addition, the court should consider the child's views in all cases except those involving very young children. If, as may often be the case, the child shares the parents' objections to medical treatment, this may lessen the chances of successful treatment and increase the child's emotional trauma.

Finally, it should be noted that this standard applies only in cases of physical harm. If the child is evidencing emotional damage, intervention should occur under Standard 11.12. This standard, however, may be used to intervene in "failure to thrive" cases; i.e., cases where a very young child is evidencing severe malnutrition, extremely low physical growth rate, delayed bone maturation and significant retardation of motor development.

References

1. Browne, Elizabeth and Penny, Lee. *The Non-Delinquent Child in Juvenile Court: A Digest of Case Law.* Reno, Nev.: National Council of Juvenile Court Judges, 1974.

2. "Guides to the Judge in Medical Orders Affecting Children," *Crime and Delinquency,* Vol. 14 (April 1968).

3. Katz, Sanford; Howe, Ruth-Arlene and McGrath, Melba. "Child Neglect Laws in America," *Family Law Quarterly* (Spring 1975).

4. Note, "Court Ordered Non-Emergency Medical Care for Infants," *Cleveland-Marshall Law Review,* Vol. 18 (May 1969).

5. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," *Stanford Law Review,* Vol. 27 (April 1975).

Related Standard

The following standard may be applicable in implementing Standard 11.14:

11.16 Intervention Under These Standards

Standard 11.15

Delinquent Acts as a Result of Parental Encouragement or Approval

Coercive State intervention should be authorized when a child is committing delinquent acts as a result of parental pressure, encouragement or approval.

Commentary

This standard provides a very limited basis for coercive intervention. It applies only in those cases where a child is committing delinquent acts as a direct result of parental pressure, encouragement or approval. The standard is, of course, in no way intended to suggest that delinquency proceedings should be generally consolidated with Endangered Child jurisdiction. Nor is the standard meant to cover situations where it is thought that the child's delinquent act is related to "inadequate" parents or "unfit" home conditions if there is no evidence that the parents either encouraged or approved of the child's actions.

Under present practice, neglect allegations are sometimes used essentially as a lesser charge to delinquency allegations, in order to minimize the harshness of a delinquency adjudication. This practice is ill-considered. Issues of responsibility, causation, and the roles of the family could arise in all delinquency cases. Unless the parents directly encouraged or participated in the delinquent act, it is virtually impossible to show that the child committed a given offense because his or her parents were neglecting him or her. Therefore, this standard curtails such practice.

This standard does not preclude delinquency charges against the child. It only provides an option to such charges. It is likewise possible that, in some cases, the parent also will be indicted for criminal conduct.

However, it is intended that Endangered Child proceedings should be the primary means of intervention in those cases that fall within the ambit of this standard. In such cases, Endangered Child proceedings are generally preferable to criminal charges against the adult. Little, if anything, is done in criminal proceedings to minimize the harmful aspects of the procedures on children. Moreover, court dispositions in such cases may actually be harmful to the child. For example, criminal proceedings may result in incarceration of a parent who should be left in the home because of the negative impact of removal on the child.

For that very limited class of cases covered by this standard, an Endangered Child hearing will likewise usually be preferable to delinquency proceedings. If the child's conduct is indeed the direct result of parental influence it is generally unfair to stigmatize the minor with the label of delinquent. Moreover, under the statutes of some States, the court handling juvenile matters has fewer dispositional alternatives after a finding of delinquency than after a neglect finding. In such instances proceedings authorized by this standard are the most appropriate forum.

References

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children.* New York: Institute for Judicial Administration (tentative draft 1976).

2. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," *Stanford Law Review,* Vol. 27 (April 1975).

Related Standard

The following standard may be applicable in implementing Standard 11.15:

11.16 Intervention Under These Standards

Standard 11.16

Intervention Under These Standards

The fact that a child is endangered in a manner specified in Standards 11.9 through 11.15 is a necessary but not a sufficient reason for a court to authorize coercive intervention. In every case a court also should find that the proposed intervention will prove to be a less detrimental alternative for the child than abstaining from intervention.

Commentary

This standard stipulates that the bases for coercive intervention set forth in Standards 11.9 through 11.15 are permissible rather than mandatory. Thus, in keeping with the principle of family autonomy, a court may decide against any form of intervention despite the fact that the child has been harmed in a manner specified by these standards.

The standard requires decisionmakers to evaluate carefully the need for intervention in the given case and to determine whether there are resources available to improve the situation. In some cases there may simply be no need for intervention. For example, a child may be physically abused by a parent in a moment of anger, but all evidence indicates that this was a one-time event and intervention is not necessary to protect the child.

In other cases the court may conclude that despite harm to the child the proposed intervention would likely worsen the situation. It is essential that the harms as well as the benefits be weighed on a case-by-case basis. For example, if a court finds that homemaker services would likely benefit the family but such services are presently unavailable, it might conclude that intervention is inappropriate because other available courses of action—for example, removal of the child from the home—would likely do more harm than good.

All coercive intercession entails costs as well as gains. State supervision may prove quite traumatic for the child. Intervention may alter family behavior and interpersonal relations in harmful, as well as positive, ways. Moreover, it may entail substantial expenditures of public funds. Therefore, it is essential that the court make a case-by-case determination that, from the perspective of the child, the proposed intervention poses a less detrimental alternative than abstaining from intervention.

Finally, it also must be recognized that when coercive intervention is appropriate, it may take a variety of different forms (see Standard 14.25). The drastic step of removing the child from the home should only be authorized in accordance with Standard 14.27.

References

1. Areen, Judith. "Intervention Between Parent and Child: A Reappraisal of the State's Role in Child Neglect and Abuse Cases," *Georgetown Law Journal*, Vol. 63 (March 1975).

2. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: A Search for Realistic Standards," *Stanford Law Review*, Vol. 27 (April 1975).

Related Standards

The following standards may be applicable in implementing Standard 11.16:

11.1 Respect for Parental Autonomy
11.2 Focus on Serious, Specifically Defined Harms to the Child
11.5 Protection of the Child's Interests
11.8 through 11.15 (Statutory Bases for Coercive Intervention)

Standard 11.17

Parties

The following should be parties to all proceedings regarding a child alleged to be or adjudicated endangered:

1. The child;

2. The child's parents, guardians, and if relevant any other adult to whom the child has substantial ties who has been performing the caretaking role; and,

3. The appropriate agency.

Commentary

This standard specifies the necessary parties in Endangered Child proceedings. It covers all proceedings from initial hearings on emergency, temporary removal to proceedings regarding termination of parental rights.

First of all, the standard makes clear that the child is an independent party entitled to all the rights of other parties. It also confers party status on the child's parents whether or not they have current custody of the child. This provision recognizes the fact that the interests of noncustodial parents, such as divorced spouses, are strong enough to warrant participation even though such parents' conduct may not be at issue in the proceedings.

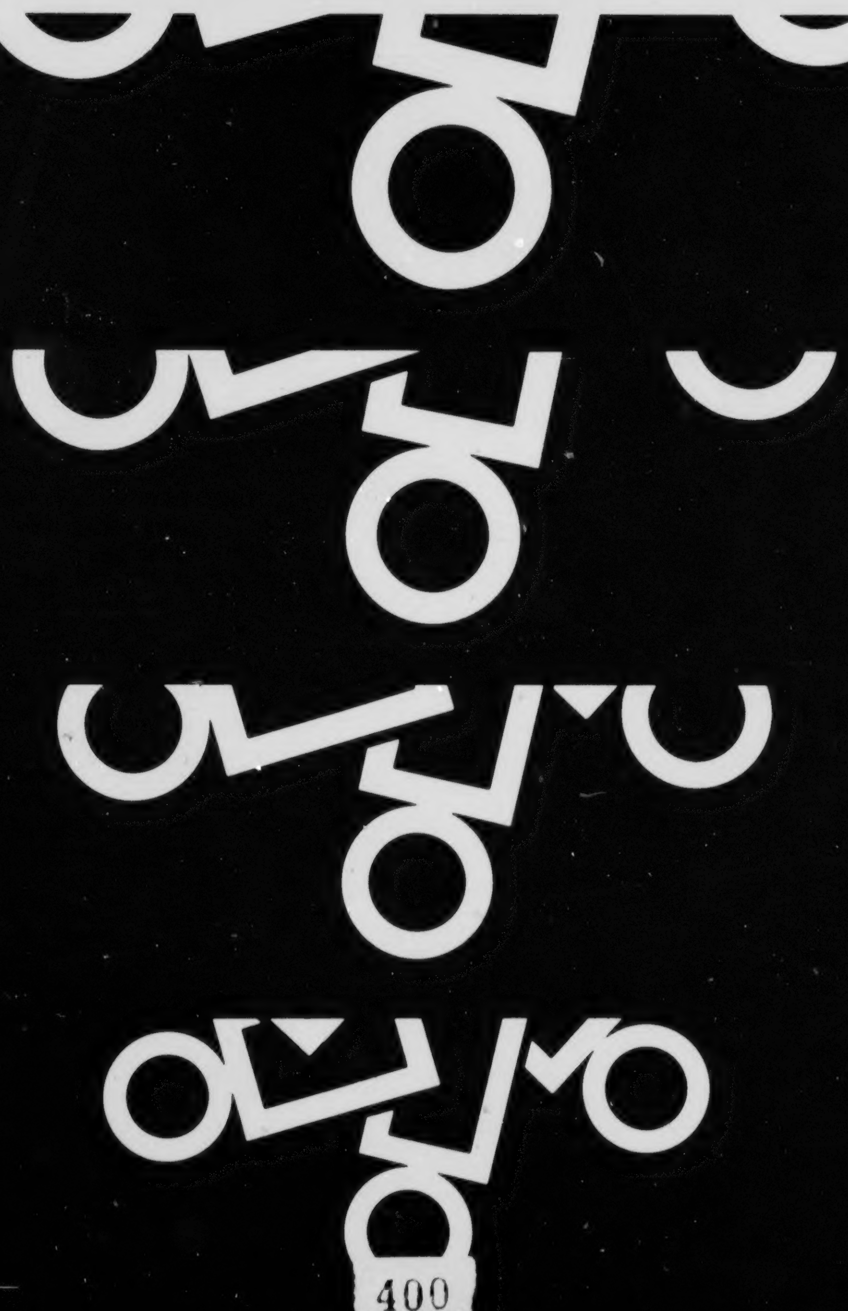
In addition, party status is provided for guardians and, where relevant, any other adult to whom the child has substantial ties and who has been performing the caretaking role—foster parents or members of the extended family who have actually been caring for the child and to whom the child has a significant ongoing relationship. It is important to involve these persons in the proceedings in order to avoid discontinuities in the child's relations with parental figures and to examine properly the child's needs in light of the child's cultural background and values.

Finally, party status is conferred on the appropriate agency. In all cases this should be the agency currently charged with the child's supervision. At preliminary hearings this will likely be the agency designated to file Endangered Child petitions. In dispositional and postdispositional proceedings, it will probably be the agency responsible for providing services or supervising the child's placement.

Reference

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children.* New York: Institute for Judicial Administration (tentative draft 1976).

Chapter 12
Preadjudication Processes



INTRODUCTION

Although a large proportion of disputes over which the family court has jurisdiction are satisfactorily disposed of outside court, inevitably the most serious matters will become court cases. The customary emphasis in public discussions of juvenile justice upon the trial and disposition stages of family court proceedings tends to obscure the vital importance of court processes that take place before the adjudication phase.

These processes deserve careful scrutiny to insure that their design and operation contribute effectively to the goals of promptness, efficiency, and fairness in the juvenile justice system. Measures can be taken in most jurisdictions to enhance the attainment of these goals. This chapter recommends standards in three subject areas: efficient caseflow management, procedural fairness, and controls on detention. Related issues involving the court process before trial are considered in other chapters, including the appointment and roles of counsel for the State and the respondent (Chapters 15 and 16), and transfer of delinquency respondents for criminal prosecution (Chapter 9).

Efficient Caseflow Management

A major frustration of those who have contact with the court system is delay in the processing of cases. Unfortunately, family and juvenile courts are not immune. Although court processing must take sufficient time to insure that the resulting disposition will be deliberate and informed, avoidable delay is especially costly in both human and economic terms. The family court's actions directly affect the most intimate and profound aspects of child and family life. It is therefore especially important to scrutinize, understand, and control factors contributing to delay in family court proceedings.

Elsewhere in this volume, the urgent need in many jurisdictions to promulgate suitable rules governing family court proceedings is discussed (see Standard 8.6, *supra*). The current lack of detailed rules may contribute to delay by creating an atmosphere of procedural uncertainty. For historical reasons, the uncertainty is most likely to affect the pretrial stages of court proceedings, such as pleading, discovering, and preadjudicatory motion practice. In the following pages, specific measures to reduce uncertainty and delay are recommended. These measures would entail the promulgation by each State of adequate procedural rules, especially governing two matters: the time frames applying to each stage of the court proceedings, and procedures for the pretrial conduct of motion practice by all parties. Although only the first of these matters directly addresses the evil of delay, the second matter is important as a means of implementing the first. That is because issues that cannot be settled before trial, such as whether certain prosecution evidence should be suppressed, often survive to disrupt and delay the proceedings at a later time.

Procedural Fairness

The desire for prompt, efficient, and economical handling of cases in family court must be balanced against a goal of equal importance: procedural fairness. Just as popular allegiance to the court system can be undermined by delay and inefficiency, it can be destroyed by the appearance of arbitrariness and injustice. The Supreme Court decision of *In re Gault*, 387 U.S. 1 (1967), did much to redress the complaint that juvenile courts operated in a lawless atmosphere, unrestrained by fundamental constitutional safeguards against the abuse of power. *Gault* and the subsequent Supreme Court decisions regulating delinquency proceedings focus exclusively upon the adjudicatory stage of the process. Still unclear are the constitutional implications of "fundamental fairness" in the critical preadjudicatory stages of family court proceedings. Perhaps as a result, State legislatures and court rulemaking bodies have been slow to develop the procedural framework required at those stages to safeguard the rights of children and parents who are brought before the family court.

A major concern of these standards, therefore, is to address the specific means required to enhance procedural fairness. The unique character of family court proceedings does not need to be compromised by borrowing blindly from the storehouse of criminal procedures, nor should the rehabilitative goals of the family court process be abandoned. Only by insisting on procedural fairness can the existence of a clear factual basis for official intervention be insured.

The protection of individual rights at the preadjudicatory stages of family court proceedings is of crucial importance for two reasons. First, fairness at the early stages is essential to insure the effectiveness of procedural protections provided later at the adjudicatory hearing. The right to counsel, for example, is of limited utility if it is not implemented until the day of adjudication, or if critical rights are waived in ignorance before counsel's entrance into the case. Second, the child and the family form their initial impressions of the court at the stage of their first contacts with it. These impressions may determine their reactions and attitudes toward court proceedings from then on. To the extent that success of the proceedings depends upon the cooperation and understanding of the child and family, they should therefore be treated with utmost fairness and consideration from the outset. This observation applies to the respondent's first contact with the judge, probation officials, counsel, and other participants in the process.

Court procedures prior to adjudication should conform to the requirements of due process. Fundamental to due process is the right to counsel, addressed in Chapter 16. The standards in this chapter concern the need for fair procedures at various preliminary stages of delinquency proceedings: at the stage of filing the petition and serving the summons, at the respondent's initial court appearance, and at detention and waiver hearings. The rights addressed include the right to fair and full notice of the allegations of the petition, and of the respondent's rights and liabilities; the right to the assistance of a bilingual interpreter; and, the right to have one's parent present at court proceedings. The standards would change prevailing law in two significant respects. First, they recommend allowing the youth to have a public hearing of delinquency charges. This recommendation is designed to increase general confidence in the impartiality of the family court judge, whose performance is especially critical in view of the absence in most jurisdictions of any right to trial by jury. Toward this same end, also, are the recommendations urging the disqualification of judges who have been exposed to prejudicial social information at preadjudicatory hearings from adjudicatory service. The second recommended change concerns the use at the adjudicatory hearing of statements made by a youth to the police or other officials while without the advice of an attorney. Restrictions on the use of such statements are necessary to protect against unreliable waivers by juveniles of their fundamental rights under the Constitution.

Controls of Detention

Abuses of preadjudicatory detention are numerous and varied. Occurring in every branch of family court jurisdiction—delinquency, status offenses, and child protection cases—these abuses constitute a significant national problem. Children, and particularly female status offenders, are detained in inadequate facilities for the wrong reasons and for excessive periods of time. As a result, State intervention often damages the very youths whom it was designed to help. Although issues regarding the conditions of detention are covered in Chapter 22, the standards in this chapter establish the following propositions:

1. The law of each jurisdiction should make clear which officials are authorized to place a child in pretrial custody.

2. The law should establish clear criteria governing the preadjudicatory custody, detention, and shelter care of children in all family court proceedings. These criteria should be as narrowly drawn as feasible. Detention for the purpose of protecting the child from danger should be restricted to instances when the child's bodily safety is threatened. Detention for the purpose of protecting the public should be restricted to instances when the youth's liberty threatens bodily harm to others.

3. No child should be detained or removed from his home pending adjudication unless the measure is clearly necessary to achieve the purposes set forth as legal criteria for such action. Communities should develop alternatives to detention such as home supervision services. A child who is removed from his home should be kept in the least restrictive setting possible. Whenever feasible, shelter facilities rather than locked facilities should be provided.

4. The law should provide for prompt judicial review of every case in which preadjudicatory custody or detention has been imposed. Hearing procedures should conform to due process requirements. Provision should be made for periodic judicial review of extended detention, for speedy appellate review of family court detention decisions, and for continuous judicial monitoring of the extent and conditions of detention within the court's jurisdiction.

5. Bail or other financial conditions of preadjudicatory release should not be used in family court proceedings.

6. The cases of youths who are detained or otherwise placed outside of their homes pending adjudication should be specially expedited. Petitions should be filed in such cases promptly following the start of detention.

Standard 12.1

Case Processing Time Frames

Each State juvenile code should set forth the time frame standards for juvenile case processing. Those should include:

1. For juveniles in detention or shelter care:

a. From admission to detention or shelter care to filing of petition, arraignment, detention, or shelter care hearing and probable cause hearing if continued detention has been ordered: 48 hours.

b. From arraignment hearing to adjudicatory hearing: 20 calendar days.

2. For juveniles not in detention or shelter care:

a. From referral to filing of petition: 30 calendar days.

b. From referral to filing of petition when the juvenile has been referred by the intake department to a service program: 90 calendar days.

c. From filing of petition to arraignment hearing: 5 calendar days.

d. From arraignment hearing to adjudicatory hearing: 60 calendar days.

3. For all juveniles:

a. From adjudicatory hearing to dispositional hearing: 15 calendar days.

b. From submission of any issue taken under advisement to trial court decision: 30 calendar days.

c. From trial court decision to appellate decision when interlocutory appeal is taken: 30 calendar days.

d. From trial court decision to appellate decision on appeal of the adjudicatory finding: 90 calendar days.

4. For detained juveniles:

A review detention hearing each 10 judicial days.

Failure to comply with these time frames should result in appropriate sanctions upon the individual(s) within the juvenile justice system responsible for the delay. The court should be able to grant reasonable continuances for demonstrably justifiable reasons. Case dismissal should occur only when failure to comply with statutory time frames results in prejudice to the particular juvenile.

Commentary

Case processing time frames should be set forth in a State's juvenile code. If not covered by statute, they should be included in State rules of juvenile procedure.

The recommended processing time frames are intended to guide court calendar management and case preparation by police, family court prosecutors, defense counsel, intake and probation officers, and staff members of collaborative community agencies. It is not recommended that failure to comply with these time frames should result in mandatory dismissal of a case with prejudice. However, repeated case continuances not caused by the juvenile or his or her representatives, that result in severe inconvenience or injury to the juvenile, should authorize judicial dismissal of this case with prejudice.

Efficient management of the court and component agencies of the juvenile justice system should make possible fundamental compliance with these standards. Nonetheless, rural areas and courts with insufficient judicial and justice system personnel will need to undertake careful planning and implementation efforts to reach these objectives.

Case processing priority should favor the juvenile in detention or shelter care, due to the particular impact and possible trauma that involuntary deprivation of freedom has on youth. The failure to conform to the time standard for the filing of a petition and the conduct of a detention or shelter hearing should result in mandatory release of these juveniles from residential care. An increasing number of States currently authorize such release by statute or rule of juvenile procedure.[1]

Further, an initial judicial finding that detention is necessary does not mean that all such juveniles must be detained until their case is ultimately disposed of. Review detention hearings should be conducted before a judge each 10 days to ascertain whether continuing detention is needed.

Certain exceptions to these time frames should be set forth: an adjudicatory hearing that follows a hearing where a judge rejects transfer to criminal jurisdiction should extend the recommended time frame; under circumstances where complex and extensive evaluation of a juvenile is necessary, or where extended time is required to investigate the availability of residential placement, a dispositional hearing may justifiably be delayed; the use of informal adjustment, followed by a violation of agreed upon conditions, should result in a time sequence initiated upon the re-referral of this juvenile.

In general, release from confinement, when an adjudicatory or disposition hearing is delayed through no fault of the juvenile, is the preferred remedy rather than case dismissal with or without prejudice.

It is important that courts establish the practice of requiring fundamental adherence to these standards. A restrictive policy as to granting continuances is one beginning point. Only judges, or in extremely well managed courts, an administrative official operating under clear guidelines provided by the judiciary, should be authorized to grant continuances—and then only under emergency or unequivocally justified circumstances.

Other sanctions may include: (1) for nonappearance by the juvenile, and, following a failure of the efforts by probation officials, defense counsel, or family to speedily bring the juvenile to the court, the issuance of a bench warrant and a taking into custody; (2) for a pattern of judicial nonappearances, the filing of a complaint with the presiding judge of the general trial court, or (3) with flagrant patterns, the filing of a complaint with the judicial discipline commission; and (4) for repeated unwarranted nonpreparedness by a publicly employed attorney, the filing of a complaint with the chief executive officer of that organization, and if this problem is not remedied, a court directive that this official shall no longer be permitted to appear in this court in this role.

References

1. Institute of Judicial Administration/American Bar Association, Commission on Standards of Judicial Administration. *Standards Relating to Trial Courts* (tentative draft, 1975).

2. Solomon, Maureen. *Caseflow Management in the Trial Court*. American Bar Association, Commission on Standards of Judicial Administration, Supporting Studies–2, 1973.

Related Standards

The following standards may be applicable in implementing Standard 12.1:

5.5 Guidelines for Issuing Citations
5.7 Guidelines for Counseling and Releasing
12.3 Court Proceedings Before Adjudication in Delinquency Cases
12.4 Juvenile's Initial Appearance in Court
12.5 Petition and Summons
12.11 Detention Hearings
13.4 Contested Adjudications
13.8 Appeals
14.7 Formal Dispositional Hearings
15.7 Presence of Family Court Prosecutor at Family Court Proceedings
15.14 Form and Content of Complaint
15.15 Form and Content of Petition Filed With Family Court by Family Court Prosecutor
16.1 Juvenile's Right to Counsel
21.3 Dispositional Report

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[1] The District of Columbia statute requires release if this hearing is not conducted the day following admission (excluding Sundays). Utah mandates release if the hearing is not held within 48 hours (excluding Sundays and legal holidays).

Standard 12.2

Motion Practice

Each jurisdiction should develop rules for the regulation of motion practice in family court, requiring motions normally to be made in writing and, when appropriate, to be supported by affidavit. The rules should specify time limits for filing motions and serving them on opposing parties, and should prescribe procedures for securing motion hearings.

The rules governing motions should provide for extrajudicial conferences between the parties before motions are argued whenever discovery motions are filed and in other appropriate circumstances.

Requests for continuances should be made in the usual course of motion practice. Untimely motions for continuances should not be granted except for exigent reasons.

Commentary

The decade since *In re Gault* has seen a significant expansion in the concept of due process as applied to delinquency proceedings. One corollary of that expansion has been the growth of preadjudication motion practice in family courts. Unfortunately, however, many courts still lack a regular mechanism for handling these motions, and as a result, the procedures to be followed are ambiguous and irregular.

Pretrial motion practice has long been an indispensable part of civil and criminal litigation. In delinquency cases, too, motion practice may be essential to obtain discovery, raise issues regarding the suppression of illegally obtained evidence, obtain psychological evaluations, and deal with numerous other matters that, for the sake of efficiency and fairness, should be handled prior to adjudication. The systematic availability of preadjudicatory motions not only protects the rights of the parties, but also provides a vehicle for early negotiation and settlement of issues in litigation. Therefore, every family court should establish regular procedures for filing and hearing such motions.

Orderly motion practice requires the allotment of court time for entertaining motions. Several arrangements are available to the courts. One is a motion day, for example, or a motion list. Another device, recently adopted by the Colorado Council of Juvenile Court Judges, is the pretrial omnibus hearing. A recent innovation in criminal procedure, the omnibus hearings, is a judicial proceeding at which the parties are required to raise all the issues normally raised by pretrial motions. To save time and paperwork, the issues may be raised orally, and are recorded on a checklist. At this hearing, the court makes all necessary pretrial decisions required in the case. Although some contend that the omnibus hearing has not proved successful in saving judicial time and avoiding pretrial delays, experimentation with this device in family courts should be encouraged.

On the assumption that omnibus hearings are not used, the standard suggests that all prehearing motions be in writing, and filed with the court and opposing parties within specified time limits. The writing requirement insures that there will be a record of all motions, thereby preserving appellate rights. Furthermore, it encourages careful consideration of the appropriateness of the requested relief.

In both criminal and civil litigation, informal conferences between the parties have proved valuable in resolving pretrial issues without the need for a hearing before the judge. The standard recommends the holdings of such conferences to facilitate the resolution of motion requests in appropriate circumstances. Circumstances in which a conference prior to hearing might produce agreement and thereby save court time are, for example, motions for discovery, lineups, polygraphs, and fingerprinting. In many such instances, the agreement of the parties will obviate the need for a hearing on the motion.

Continuances at the request of the juvenile or the prosecution are a major cause of frustration, delay, and inefficiency in many juvenile courts. Often granted to suit the convenience of lawyers, police, court officials, and other participants in the process, continuances tend to defeat the family court's primary goal: prompt justice for the juvenile and for society. It is recommended that each jurisdiction adopt measures to prevent the abuse of continuance procedures. Requests for continuances should be made in the regular course of motion practice, i.e., in writing with adequate notice to the opposite party. Only in exigent circumstances, such as the illness of an attorney or witness, or an attorney's sudden obligation to appear in a different court, should the court grant an untimely continuance request.

References

1. Besharov, Douglas. *Juvenile Justice Advocacy*. New York: Practicing Law Institute, 1974.

2. Colorado Council of Juvenile Court Judges. *Standards of Juvenile Justice* (1974).

3. *In re Gault*, 387 U.S. 1 (1976).

4. Comment, "Why the Omnibus Hearing Project?" *Judicature*, Vol. 55 (1972).

5. National Juvenile Law Center. *Law and Tactics in Juvenile Cases*. St. Louis, St. Louis University School of Law (2 ed. 1974).

6. Nimmer. *Omnibus Hearing, An Experiment in Relieving Inefficiency, Unfairness and Judicial Delay* (1971).

Related Standards

The following standards may be applicable in implementing Standard 12.2:

8.3	Judicial Proceedings Heard by a Judge
8.6	Family Court Rules
9.6	Venue
12.1	Case Processing Time Frames
12.6	Search and Seizure
15.8	The Role of Family Court Prosecutor
16.2	The Role of Counsel in the Family Court
18.5	The Leadership Role of the Family Court Judge

Standard 12.3

Court Proceedings Before Adjudication in Deliquency Cases

Court procedures in delinquency cases prior to adjudication should conform to due process requirements. Except for the right to bail, grand jury indictment, and trial by jury, the juvenile should have all the procedural rights given a criminal defendant.

The juvenile should have the following rights in addition to the right to counsel:

1. An impartial judge;

2. Upon request by the juvenile, a proceeding open to the public or, with the court's permission, to specified members of the public;

3. Timely written notice of the proceeding, and of the juvenile's legal rights;

4. The presence of parent or guardian;

5. The assistance of an interpreter when necessary;

6. The right to avoid self-incrimination;

7. The right to avoid waving his or her constitutional rights without prior consultation with an attorney; and

8. The right to the keeping of a verbatim record of the proceedings.

Commentary

This standard addresses the need for procedural fairness in family court delinquency proceedings prior to the adjudication finding. The standard applies to all court hearings that the juvenile is required to attend, such as arraignments, detention hearings, hearings on transfer for criminal prosecution, and the adjudicatory hearing itself.

The Supreme Court decided in *In re Gault* that the 14th amendment to the Constitution requires fundamental fairness in delinquency proceedings. In applying this constitutional standard the Court was seeking to insure that deprivations of juvenile liberty would take place under sufficiently formal procedures to minimize the risk of arbitrary or unwarranted action. Although the due process protections that this standard applies derive from those guaranteed in criminal prosecutions, applying them to delinquency cases does not necessarily negate the family court's rehabilitative goals. Procedural fairness does, however, serve to insure that a clear factual basis exists for official intervention.

Every constitutional guarantee afforded to criminal defendants should not be applied to delinquency proceedings, without regard to the need for such protection or its potential harmful impact on the goals of the system. For example, the right to indictment by a grand jury for serious offenses, which exists in many jurisdictions, is a costly and anachronistic device that few would suggest should be extended to juvenile delinquency proceedings. The bail system in criminal cases has also received much justifiable criticism, and it is believed that money bail is not an appropriate release mechanism for juveniles. There is more difficulty in deciding whether the right to jury trial should apply in delinquency cases, but the jury's disadvantages, which include increased formality, expense, and delay, seem to outweigh its admitted usefulness in a small proportion of cases.

Other procedures and strategies are recommended for assuring that the family court judge is absolutely impartial. These include the right to a public hearing, and to an impartial judge who has not previously been exposed to prejudicial information. If a judge sitting at a hearing to find facts—such as a hearing on probable cause or on the merits of the delinquency complaint—has previously been exposed to the case or to the juvenile's personal history, he or she should be disqualified on request of the juvenile, if feasible. The trial judge should scrupulously avoid exposure prior to the juvenile's probation record or social history prior to the time of making an adjudication of delinquency.

The standard's recommendation that the juvenile be allowed to open the proceeding to the public or, if the court permits, to specified members of the public, is also calculated to insure fair fact finding. As recognized by Justice Brennan in the Supreme Court decision in *McKeiver v. Pennsylvania*, publicity may function protectively as does a jury:

> The availability of trial by jury allows an accused to protect himself against possible oppression by what is in essence an appeal to the community conscience, as embodied in the jury that hears his case. To some extent, however, a similar protection may be obtained when an accused may in essence appeal to the community at large, exposing improper judicial behavior to public view, and obtaining if necessary executive redress through the medium of public indignation." 403 U.S. 528 (1971) [Concurring Opinion].

Although the standard contemplates that the judge will normally grant a juvenile's request to open the proceeding to nonparticipants, this report does not intend to foreclose the exercise of sound discretion in special circumstances to keep the proceedings partially or completely closed. This might be done, for example, to protect a young victim testifying to sexual abuse by the alleged delinquent. The judge should also exercise the power, when appropriate, to prevent distractions from and disruptions of court proceedings by any persons, and if necessary order them removed from the court room.

In the *Gault* case the Supreme Court held that due process under the Constitution guarantees to delinquency defendants the right to counsel, to have notice of the charges, and to confront and cross-examine the State's witnesses. The standard's requirements regarding notice, parental presence, and an interpreter are necessary to implement the goal of fundamental fairness. Because delinquency proceedings may have serious consequences for juveniles and their parents, it is essential that they receive timely notice of the proceedings, and of their legal rights. Notice should go to both parent and child. The writing requirement serves to emphasize the seriousness of the matter and to record the fact that notice was given. The notice should adequately describe the time, place, and subject matter of the proceedings. In communities where bilingual notices would be useful and feasible, they should be employed. Bilingual interpreter services also should be provided when necessary to insure that all the participants fully understand the proceedings. Adequate notice, bilingual interpretation, and the presence of parents are all necessary to assist the juvenile and his or her lawyer in intelligently preparing for and participating in the court process.

The standard's recommendation that no constitutional right of a juvenile can be waived by the juvenile without prior consultation with an attorney is an expression of concern about youthful waivers of constitutional rights. It is believed that individuals below a certain age—juveniles—lack the maturity of judgment necessary to make such momentous decisions on their own behalf without consultation with a lawyer. The attorney's function would be to discuss with the youth the wisdom of waiving the particular right in question, and to assure that any such decision was made with full understanding of both the benefits and adverse consequences of waiver (see also Standard 16.1, Right to Counsel).

This report is especially concerned with the privilege against self-incrimination, which the *Gault* case applied to juvenile delinquency proceedings. It would not wish to impose a rigid ban on police interrogation of juveniles in the absence of defense counsel. However, the possible coercive impact on juveniles of custodial police questioning, or other confrontations with adult officials, requires careful scrutiny of waivers made in such contexts. The approach traditionally employed by the courts is to permit the introduction of such statements if, in the totality of circumstances, it appears that such waivers were made voluntarily, knowingly, and intelligently. Under that approach, a youth's confession could be used unfavorably in judicial proceedings even if it was made to the police while in custody, without an opportunity to consult a lawyer about the advisability of remaining silent. Such statements should be excluded as direct evidence if objected to at any judicial proceeding prior to entry of an adjudication of delinquency or, in a criminal proceeding, prior to conviction. The standard does not forbid questioning in such circumstances, but does require the police to choose between questioning the youth immediately without being able to use the resulting statements (or other evidence derived from such statements) to prove the government's case in court, and postponing questioning until the youth's parent or attorney appears. Statements could, in any event, be used to impeach the juvenile's credibility if trial testimony were inconsistent with the statements.

This restriction on the admissibility of statements is meant to apply to statements made to officials during the process of a delinquency case, even if the youth is not in custody. This would include statements made to the prosecutor, a probation officer, or social worker involved in such stages of the case as intake, plea negotiations, consent decree, or predisposition study. It would not apply to statements made after a family court decision ordering a juvenile transferred for criminal prosecution.

The recommendation that a verbatim record of the proceedings be kept is designed to assure the existence of an adequate record for appellate review and collateral proceedings. Electronic tape recording, stenographic transcription, or other means might be used.

References

1. Davis, Samuel M. *Rights of Juveniles.* New York: Clark Boardman Company, 1974.

2. Note, "'El Derecho de Aviso': Due Process and Bilingual Notice," *Yale Law Journal,* Vol. 83 (1973).

3. *In re Gault,* 387 U.S. 1 (1967).

4. *McKeiver* v. *Pennsylvania,* 403 U.S. 528 (1971).

Related Standards

The following standards may be applicable in implementing Standard 12.3:

4.5 Procedural Differences for Handling Juveniles
5.8 Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination
8.3 Judicial Proceedings Heard by a Judge
9.1 Definition of Delinquency
12.5 Petition and Summons
12.6 Search and Seizure
13.2 Acceptance of an Admission to a Delinquency Petition
13.3 Withdrawal of Admissions
13.4 Contested Adjudications
13.5 Adjudications of Delinquency—Standard of Proof
15.7 Presence of Family Court Prosecutor at Family Court Proceedings
15.8 The Role of Family Court Prosecutor
15.18 Family Court Prosecutor's Role in Plea Negotiations
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court

Standard 12.4

Juvenile's Initial Appearance in Court

Promptly after a delinquency petition is filed, the juvenile should be required to appear in court to be arraigned. Juveniles in custody should be arraigned at the start of the detention hearing. Juveniles who are not detained should be required to appear for arraignment within 72 hours of the time that the summons or citation is served upon them. The juvenile's parent or guardian also should be required to attend the arraignment.

At the arraignment the court should orally inform the juvenile of his or her legal rights, and of the allegations and possible consequences of the delinquency petition. The court also should appoint counsel if appropriate, and set the date for trial.

Commentary

The law of many jurisdictions does not require a formal arraignment in delinquency proceedings. Detained juveniles first appear in court for the detention hearing, if one is held; nondetained juveniles are ordered by the summons or citation to appear on the date of the adjudicatory hearing. Most of the traditional functions of the arraignment in criminal proceedings are equally essential if not more so in delinquency cases. The youth and his or her parents must receive prompt and adequate notice of allegations and of their legal rights. If needed, counsel must be provided promptly, and all parties must be notified of the date of the adjudicatory hearing. These requirements serve the interests of judicial efficiency, as well as the basic demands for fairness to the juvenile.

Particularly in urban courts, the arraignment can be a frustrating experience for the juvenile and his or her family. Although the arraignment itself frequently takes less than 5 minutes, the parties may have to spend several hours waiting in court. Families unfamiliar with court procedures may frequently misunderstand the arraignment's purpose, being frustrated both by the complainant's absence and by their need to wait until a later appearance to answer the charges. Like any court proceeding, arraignments also are costly in terms of demands on the time of judges, court staff, police officers, and attorneys, if already retained. For these reasons, the National Advisory Commission on Criminal Justice Standards and Goals recommended abolition of the arraignment as a separate stage of criminal procedure. To accomplish the functions of arraignment for defendants who are not in custody, the Commission would employ written notices. In the absence of data on the effectiveness of written communications, oral incourt arraignment procedures are recommended. However, experimental programs to determine whether the separate arraignment appearance can be safely eliminated in delinquency proceedings should be undertaken.

The standard recommends that detained juveniles be arraigned at the start of the detention hearing. Under these standards, this will occur within 48 hours of the time the juvenile is taken into custody. Nondetained juveniles should be required by the police citation or court summons to appear within 72 hours to be arraigned. One of the major reasons for holding the arraignment promptly is to impress upon all concerned that the petition is to be taken seriously. In congested courts, 4 to 6 weeks might elapse before adjudication, during which period the impending proceedings might have little deterrent or other impact if there were no arraignment.

Normally, the arraigning court should enter a plea for the juvenile denying the allegations of the delinquency petition, because counsel will not have had sufficient time to investigate the facts and otherwise prepare the case. Even if the juvenile validly waives the right to counsel, taking a plea at the same proceeding in which the juvenile is informed of the charges and of his or her legal rights would often preclude adequate deliberation and consultation.

References

1. District of Columbia Rules—Juvenile Proceedings.

2. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards on Pretrial Court Proceedings* (final draft). New York: Institute for Judicial Administration. 1975.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 12.4:

5.5	Guidelines for Issuing Citations
5.7	Guidelines for Counseling and Releasing
8.3	Judicial Proceedings Heard by a Judge
8.6	Family Court Rules
9.1	Definition of Delinquency
12.1	Case Processing Time Frames
12.3	Court Proceedings Before Adjudication in Delinquency Cases
14.2	Duration of Dispositional Authority
14.9	Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13	Classes of Delinquent Acts for Dispositional Purposes
14.17	Multiple Delinquent Acts
15.7	Presence of Family Court Prosecutor at Family Court Proceedings
16.1	Juvenile's Right to Counsel
16.2	The Role of Counsel in the Family Court
16.3	The Role of Counsel for the Incompetent Client

Standard 12.5

Petition and Summons

A delinquency petition should set forth in plain and concise language and with reasonable particularity the time, place, and manner of the acts alleged, and should cite the Federal or State statute or local ordinance that is alleged to have been violated.

A summons should be issued that provides notice to the juvenile and his or her parents of their required appearance in court on a designated date, their right to representation by counsel, and the available procedures for obtaining counsel.

The summons and petition should be served on a juvenile and on his or her parents. The form and contents of the petition and summons should be determined by the Supreme Court, the judicial counsel, or other rulemaking body and should be uniform throughout a State.

Commentary

The constitutionalization of the juvenile justice process extends to the formal initiation of proceedings in the interest of a juvenile. The landmark 1967 decision *In re Gault*, in applying the 14th amendment to State juvenile court proceedings, held that the petition must "set forth the alleged misconduct with particularity." Fundamental fairness requires that any person, adult or juvenile, over whom court jurisdiction is sought, must have the right to know the specific act or acts that have allegedly violated the law in order to determine whether to contest the charge, and how and what to defend.

An increasing number of juvenile court acts and State rules of juvenile procedure require such particularity, and further require that the petition explicitly cite the law that allegedly has been violated. This direction should be supported.

Consistent with the right to know, juveniles should receive their own copy of the petition and summons, and the summons should elaborate the rights of the juvenile and his or her family to counsel. The summons also should specify that the juvenile and his or her family are entitled to appointed counsel if they are indigent, and it should describe the available procedures for obtaining legal representation. It should, for example, list the address and phone number of the local legal aid society or the appointing authority of the court.

To insure that the petitions and summons meet these requirements, a State's rulemaking body should promulgate uniform forms and content directives for statewide utilization.

Related Standards

The following standards may be applicable in implementing Standard 12.5:

8.6 Family Court Rules
9.1 Definition of Delinquency
12.1 Case Processing Time Frames
12.4 Juvenile's Initial Appearance in Court
15.14 Form and Content of Complaint
15.15 Form and Content of Petition Filed With Family Court by Family Court Prosecutor
16.1 Juvenile's Right to Counsel
16.5 Representation for Children in Family Court Proceedings
16.6 Representation for Parents in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
18.5 The Leadership Role of the Family Court Judge

Standard 12.6

Search and Seizure

Evidence that is illegally seized or obtained should not be received to establish the allegations of a juvenile delinquency petition.

Commentary

The application of the fourth amendment prohibition against unreasonable searches and seizure to juvenile delinquency proceedings has been a matter of some dispute. Three distinct issues arise in connection with this area: (1) Does the fourth amendment apply to juveniles charged with delinquency? (2) If so, are there respects in which the fourth amendment applies differently to juveniles than it does when adults are involved? and (3) If the fourth amendment applies to juveniles and was violated, does the rule requiring exclusion at trial of unconstitutionally or illegally obtained evidence also apply in delinquency proceedings?

Although the Supreme Court has not addressed these issues, it is now widely, if not universally, held that children are among the persons assured freedom from unreasonable search and seizure by the fourth amendment. Examples are: *In re Marsh*, 40 Ill. 2d 53, 237 N.E. 2d 529 (1968); *State* v. *Lowry*, 95 N.J. Super. 307, 230 A. 2d 907 (1967); *In re B.M.C.*, 506 P. 2d 409 (Colo. App. 1973). Moreover, there has been no suggestion that the exclusionary rule—adopted in criminal cases as a necessary device to assure observance of fourth amendment rights, *Mapp* v. *Ohio*, 367 U.S. 643 (1961)—does not apply in juvenile delinquency proceedings. As a New Jersey court observed:

> Is it not . . . outrageous for the police to treat children more harshly than adult offenders, especially when such is violative of due process and fair treatment? Can a court countenance a system where, as here, an adult may suppress evidence with the usual effect of having the charges dropped for lack of proof, and on the other hand, a juvenile can be institutionalized . . . for 'rehabilitative' purposes because the Fourth Amendment right is unavailable to him? (95 N.J. Super. at 316, 230 A. 2d at 911.)

In addition, a number of State and model juvenile codes have expressly incorporated the exclusionary rule by declaring that illegally seized evidence may not be admitted in juvenile court cases.

The present standard follows current law in recognizing the general applicability of the fourth amendment and of the exclusionary rule to juveniles charged with delinquency. If these doctrines applied to children as they do to adults, alleged delinquents could be searched and their property seized only upon a warrant incident to a lawful taking into custody, or with the juvenile's consent. As the fourth amendment governs seizures of the person, juveniles could be taken into custody (and searched incident thereto) only when an officer has a valid warrant or reasonable grounds for believing that the child has committed a crime. However, there are areas in which the application of fourth amendment doctrines in cases involving children has diverged from rules adopted for adults. Several of these areas arise so commonly and create such difficulty as to justify specific discussion.

Consent to Search

It has long been recognized that a person may waive objection to a search by voluntary consent to that activity. Whether a consent given by the juvenile respondent will be deemed voluntary and knowing is usually said to depend on all the circumstances, including the child's age, maturity, experience, and mental capacity. While courts say routinely that a reasonable presumption against waiver of a constitutional right should be indulged, the Supreme Court has recently held, in a case involving an adult, that an individual need not be advised of the right to deny permission as a precondition of voluntarily consenting to a search. *Schneckloth* v. *Bustamonte*, 412 U.S. 218 (1973).

In other areas, however, these standards have taken the position that children should not be held to waivers of constitutional rights unless they have been advised of their existence and significance by legal counsel. An uninformed and uncounseled child may, therefore, be thought incapable of consenting to a search of person or property.

Consent to Search by Parents

The fourth amendment guarantee against search and seizure is ordinarily a personal claim to be asserted by the individual whose person or property is subject to interference. There are, however, circumstances where persons other than that individual have been held competent to consent to entry and search by the police. It has, for example, been said that a roommate, parent, or spouse sharing an apartment or home with the defendant may give permission for an entry and search of the shared premises. This line of decisions limits an individual's right to privacy to areas over which he or she has exclusive possession and control, and permits another who shares possession to consent to entry and search of the area.

If this view is taken with respect to children, as it regularly is, there will be virtually no instance in which a juvenile can claim a privacy interest in a place that is not subject to waiver by others. Most children live on premises owned or rented by their parents or guardians. The latter may, by reason of their ownership or lease, allow inspection of any part of those premises even though that part is considered the child's room with privacy to be respected. This could be, at least with regard to the older child, an undesirable circumstance. In its reliance on notions of property ownership rather than actual privacy interests, it is inconsistent with nonproprietary fourth amendment concerns recognized by the Supreme Court. In *Katz* v. *United States*, 389 U.S. 347 (1967), the Court largely abandoned an ownership approach to defining what a person may claim as an area of privacy for fourth amendment purposes:

> The Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not subject to Fourth Amendment protection. . . . But what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.

It could, therefore, be considered—although most decisions do not go so far—that a minor's room, treated as private by the juvenile and generally so by parents, is entitled to be treated as private for fourth amendment purposes. The same point can be made in respect to enclosed areas in the room such as desks, bureaus, or boxes, that are not generally made available for the inspection of others.

Searches at School

A related issue, almost unique to juveniles, arises with respect to searches conducted on school premises. Searches of students, lockers, and desks by school personnel have consistently been upheld, although widely different rationales have been used to justify these searches.

The fourth amendment only prohibits unreasonable searches by government agents, and it has sometimes been held that school officials (unlike police officers) are private persons for this purpose. When this position is taken, of course, reasonableness of the search is no longer significant and evidence obtained thereby is freely admissible. Although no generalizations are possible, it appears that such a search is less likely to be considered private when conducted in cooperation with police officers, or when the search is for the purpose of gathering evidence rather than a pursuit of ordinary school objectives. Alternatively, courts have relied on the notion that school personnel are *in loco parentis* with respect to students in upholding local inspections. As surrogate parents, it is said, administrators and teachers have much the same powers of control, supervision, and discipline that parents generally enjoy. In practice, this means that schools may go far and act quickly in dealing with suspected risks to the health and morals of their students, even when the grounds for suspicion may not objectively amount to reasonable grounds for believing the child has committed or is committing crime.

Finally, proprietary interest and consent doctrines, generally applicable to fourth amendment cases, have been employed specifically in connection with school searches. On the other hand, it has been held that a student shares locker possession with the school and is exclusive only in relation to other students. *In re Donaldson*, 269 Cal. App. 2d 509, 75 Cal. Rptr. 220 (1969); *People* v. *Overton*, 20 N.Y. 2d 360, 229, N.E. 2d 596, 283 N.Y.S. 2d 22 (1967). Because of their retained proprietary interest, school officials may themselves inspect or consent to police inspection of lockers or desks. It also has sometimes been found that students expressed or implied consent in advance to inspection of their lockers and desks by school officials.

Many of these rationales are obviously artificial. To treat school officials, who frankly rely on their legal responsibilities in justifying emergency searches, as private or nongovernmental for fourth amendment purposes upholds neither reason nor experience. Similarly, the notion that children implied consent to locker and desk searches is not only often inaccurate in fact, but also is difficult to reconcile with the general requirements that waivers of constitutional rights be knowing and intelligent. The *in loco parentis* doctrine, as often as it appears in different context, unfortunately serves as a conclusory label rather than as an analytical category. It is applied after courts have already decided that given school action is for some reason permissible. At the same time, the very multiplicity of grounds invoked with respect to school searches bespeaks broad agreement that something in the school setting requires greater latitude for official action than is generally available in other circumstances. Of course, there are situations in which the legitimacy of this concern is undeniable. However, recognition of those situations should be determined according to the precise circumstances that make a search reasonable—which is, ultimately, the governing constitutional standard.

In particular instances, school searches can be determined reasonable in the absence of a valid warrant or probable cause to believe the child has committed a crime. Examples are: (1) when there is reason to fear that a student possesses a dangerous weapon on his person; or, (2) pursuant to an announced policy of inspection of lockers or other equipment reasonably related to protecting the health or safety of the students and order within the school. In the former instance, the threat of harm is so grave and potentially so imminent that further investigation concerning the threat cannot safely be required. See *In re Boykin*, 237 N.E. 2d 460 (Ill. 1968). Administrative searches can be justified as long as they are directed to maintenance of order rather than to discovery of evidence, and there is some articulable ground for thinking a risk to that order exists in lockers or desks (for example, possible narcotics trafficking). Participation of police officers in the search should not in itself affect the legality of that activity, although it may, in any given case, tend to prove that the search was conducted for the purpose of obtaining evidence for a contemplated prosecution rather than incident to an administrative inspection.

References

1. Davis, Samuel M. *Rights of Juveniles: The Juvenile Justice System*. New York: Clark Boardman Company, Ltd., 1974.

2. Donoghoe. "Emerging First and Fourth Amendment Rights of the Student," *Journal of Law and Education*, Vol. 1, 1972.

Related Standards

The following standards may be applicable in implementing Standard 12.6:

8.6 Family Court Rules
12.2 Motion Practice
13.4 Contested Adjudications
13.5 Adjudication of Delinquency—Standard of Proof
18.1 The Court's Relationship With Law Enforcement Agencies
18.5 The Leadership Role of the Family Court Judge

Standard 12.7

Criteria for Preadjudicatory Detention of Juveniles in Delinquency Cases

A juvenile should not be detained in any residential facility, whether secure or open, prior to a delinquency adjudication unless detention is necessary for the following reasons:

1. To insure the presence of the juvenile at subsequent court proceedings;

2. To provide physical care for a juvenile who cannot return home because there is no parent or other suitable person able and willing to supervise and care for him or her adequately;

3. To prevent the juvenile from harming or intimidating any witness, or otherwise threatening the orderly progress of the court proceedings;

4. To prevent the juvenile from inflicting bodily harm on others; or

5. To protect the juvenile from bodily harm.

A detained juvenile should be placed in the least restrictive residential setting that will adequately serve the purposes of detention.

Commentary

In the criminal justice system, pretrial detention serves the purpose of insuring that the accused will be present at trial. If an accused can meet bail or satisfy other conditions to assure his or her presence at later proceedings, he or she may not normally be kept in detention. The only exceptions to the right to bail concern defendants charged with capital offenses, and defendants who have demonstrated that their freedom would pose a personal threat to witnesses, or otherwise defeat the orderly progress of trial. The juvenile justice system, however, has traditionally allowed preadjudicatory detention more liberally. Some provision usually exists for ordering nonsecure, residential care before adjudication for youths who require substitute parental care. The law also generally permits detention to prevent the youth from engaging in further delinquent or other harmful conduct. Detention for such reasons is preventive detention.

The standard permits the court to order that a youth be detained in secure or open residential care before adjudication in five circumstances. Detention may be ordered to insure the juvenile's presence at subsequent court proceedings, to provide parental care and to prevent the commission of certain harms against witnesses, the public or the juvenile.

Paragraph two of the standard permits the court to order retention of the juvenile in a residential placement when the youth needs the physical care normally provided by a parent, but which for some reason is not available at that time. Substitute care, which should always be provided in an open shelter or foster care setting rather than in a locked facility, may be necessary because the respondent's parent is hostile to the youth and refuses to receive the child back into the family home. In some instances, the youth may be charged with an offense against another household member, and the court may decide that the youth's interests would best be served by temporary placement outside the home.

The standard permits the use of preventive detention in the situations described in items three, four, and five. Item four of the standard is designed specifically to provide a preventive detention measure for the violent or recidivist delinquent who presents a clear threat to the community. Though it is to be used sparingly, this provision appears necessary to handle juveniles who present such a serious threat to society. A court may not, however, detain a youth simply to prevent the predicted commission of property offenses.

Although preventive detention may be justified in terms of the State's responsibility as *parens patriae* to protect youth from dangerous conduct or environments, several considerations argue for strict limitations upon its use. The major argument against detention of juveniles before adjudication is that until the allegations of delinquency have been tried and proven, the youth enjoys the presumption of innocence. Restrictions upon liberty at the pretrial stage may therefore be premature and unjust. Also, aside from its costliness to the taxpayer, detention may have a severe negative impact on the child. Separating a youth from home and familiar surroundings, even for a short period of time, can be quite detrimental to his or her well-being: "The indiscriminate use of detention . . . is at best extremely disruptive to the child's emotional security." (National Council of Juvenile Court Judges, Handbook for New Juvenile Court Judges, 1972, p. 21.) Detention status also may hamper the juvenile's opportunity to prepare an effective defense to the allegations, and may subtly influence the court's final disposition of the case to his or her detriment.

Objections also have been raised regarding the premises underlying preventive detention. Critics have documented the difficulty of making reliable predictions of future conduct and have pointed out the high individual and social costs of erroneous predictions. They also have exposed the difficulty of discovering the incidence of detentions based on predictions of future harm or misconduct.

This standard is meant to govern detention decisions by administrative and judicial personnel at all preadjudicatory stages of the judicial delinquency process. Detention for any purpose must be found to be necessary. This implies consideration of alternative arrangements that might be devised to serve the same goals. For example, detention for the purpose of insuring the youth's presence in court might be avoided if an arrangement for increased supervision by family or community resources could be substituted.

References

1. Besharov, Douglas. *Juvenile Justice Advocacy*. New York City: Practicing Law Institute, 1974.

2. *Carbo* v. *United States*, 288 F 2d 282 (9th Circuit 1961).

3. Dershowitz, Alan. "Preventive Confinement: A Framework for Constitutional Analysis." *Texas Law Review*, Vol. 51 (1973).

4. Dershowitz, Alan. "Preventive Detention and the Prediction of Dangerousness." *Journal of Legal Education*, Vol. 1.

5. Hoffman, Nancy and Kristine Mackin McCarthy. "Juvenile Detention Hearings: The Case for a Probable Cause Determination," *Santa Clara Lawyer*, Vol. 15 (1975).

6. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Interim Status*. (Freed, et al., Reporters; draft Sept. 1975).

7. Levin, Mark M. and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. Ann Arbor, National Assessment of Juvenile Corrections (1974).

8. National Advisory Commission on Criminal Justice Standards and Goals. *Courts* and *Corrections*. Washington, D.C.: Government Printing Office, 1973.

9. National Council of Juvenile Court Judges. *Handbook for New Juvenile Court Judges*, in *Juvenile Court Judges Journal*, Vol. 23 (Winter, 1972).

10. Sarri, Rosemary C. *Under Lock and Key: Juveniles in Jail and Detention*. Ann Arbor, Michigan: National Assessment of Juvenile Corrections (1974).

Related Standards

The following standards may be applicable in implementing Standard 12.7:

5.9 Guidelines for Temporary Police Detention Practices
9.1 Definition of Delinquency
12.11 Detention Hearings
12.12 Conditions of Release
15.7 Presence of Family Court Prosecutor at Family Court Proceedings

15.8 The Role of Family Court Prosecutor
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.5 Representation for Children in Family Court Proceedings
16.6 Representation for Parents in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
18.1 The Court's Relationship With Law Enforcement Agencies
18.4 The Court's Relationship With the Public
22.3 Use of Jails Prohibited
22.4 Preadjudicatory Detention Review

Standard 12.8

Families With Service Needs—Preadjudicatory Shelter Care

Preadjudicatory shelter care should not be used in any Families With Service Needs proceedings unless such shelter care is clearly necessary to protect the juvenile from bodily harm and all available alternative means for adequately providing such protection have been exhausted.

When it is necessary to provide temporary custody for a juvenile pending a Families With Service Needs proceeding, every effort should be made to provide such custody in the least restrictive setting possible, and to assure that the juvenile does not come into contact with juveniles detained pending delinquency proceedings or adjudicated delinquents awaiting disposition.

Commentary

This standard sets forth guidelines for the preadjudicatory shelter care of juveniles involved in Families With Service Needs proceedings. It is intended that such shelter care should be resorted to in only the rarest of circumstances, when there is no other feasible way to protect the juvenile from some kind of bodily harm. Preadjudicatory temporary custody in Families With Service Needs matters should never be used as a corrective or punitive measure, should never be based on a vague belief that the juvenile is likely to commit a delinquent act and, above all, should not be seen as the answer for every child who requires temporary care outside of the home prior to adjudicatory proceedings.

Children who commit any of the wide range of status offenses found in juvenile laws of the various States have been and continue to be detained frequently. The National Council on Crime and Delinquency found that, "of the approximately 600,000 children held each year in secure detention pending a court hearing more than one-third are status offenders." In some States, status offenders make up the largest proportion of juveniles detained at any one time; this is especially true for females who are much more likely to be detained prior to adjudication for status offenses than males.

Recent legislation, both on the Federal and State levels, has established some restrictions on the preadjudicatory detention of juveniles charged with status-type behaviors. The Juvenile Justice and Delinquency Prevention Act of 1974, Section 233(a)(12) provides that ". . . within two years after submission of the [delinquency prevention and juvenile justice] plan that juveniles who are charged with . . . offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention . . . facilities, but must be placed in shelter facilities." However, as of July 1975, only Georgia, Louisiana, and the District of Columbia had statutory provisions against temporary detention of status offenders with juveniles charged with delinquent acts. A firm policy on the part of some juvenile and family court judges against detaining any juveniles accused of noncriminal misbehavior with delinquents can and has proven more effective in many areas.

Explanations for the widespread use of detention in cases of noncriminal misbehavior include: (1) a belief that there is need to protect the juvenile from physically, emotionally, or morally harming himself or herself or others with further unacceptable behavior; (2) that noncriminal misbehavior makes a juvenile more likely to commit criminal misbehavior; and (3) a general attitude that it will do him or her good to see how nice he or she really has it at home. The real reason, however, is probably that detention is presently the most convenient method for the preadjudicatory handling of juveniles exhibiting status types of behavior, because other resources for the placement of juveniles during a family crisis are either not available or are available only on a very selective basis.

There will be children coming within the Families With Service Needs jurisdiction who will need intensive short-term services during the preadjudicatory and predispositional phases of family court involvement. However, only in very rare circumstances should it be necessary to detain a juvenile in order to provide these services. What most of these children need is not detention but attention to specific needs and problems that have precipitated their behavior. Alternative methods that will relieve family tension and keep the juvenile within the home or community can and must be developed. Examples would be day care services, homemaker services, home detention with services and consultation given to the family on an ongoing basis, special foster placements, group homes, etc.

The only juveniles placed in shelter care should be those who, even with the proper services, cannot be maintained in the community and need to be in shelter care to protect them from bodily harm. An example would be a young child who continually runs away from home or any other residential placement regardless of what services are offered or provided, and is therefore exposing himself or herself to the myriad harms that can befall a young child unsupervised and unprotected on a city street.

Even where a juvenile must be maintained in temporary custody prior to a Families With Service Needs proceeding, the standard provides that such custody be in the least restrictive setting possible. Furthermore, the standard expresses a preference that juveniles involved in Families With Service Needs proceedings not come into contact with detained juveniles involved in delinquency proceedings. This may cause considerable difficulties in many jurisdictions where only one facility exists for the preadjudicatory holding of all juveniles. However, even within such facilities separate wings or hallways, separate dining tables, and other separations can be designed for Families With Service Needs juveniles that will at least prevent any long-term contact with juveniles charged with delinquent acts.

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7. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

8. Sarri, Rosemary C. "The Detention of Youth in Jails and Juvenile Detention Facilities," *Juvenile Justice*, Vol. 24, 1973.

Related Standards

The following standards may be applicable in implementing Standard 12.8:

5.6 Guidelines for Taking a Juvenile Into Custody
5.9 Guidelines for Temporary Police Detention Practices
10.4 Running Away

10.5 Truancy
10.6 Disregard for or Misuse of Parental Authority
10.7 Use of Intoxicating Beverages
10.8 "Delinquent Acts" By Child Younger Than 10
16.5 Representation for Children in Family Court Proceedings
16.6 Representation for Parents in Family Court Proceedings
19.3 Provision for Services
21.2 Processing Applications for Petitions to the Family Court
22.2 State Standards for Detention and Shelter Care Facilities

Standard 12.9

Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home

Statutes governing emergency removal of Endangered Children from the home should:

1. Specifically enumerate the types of personnel authorized to undertake removal;

2. Allow removal only when it is necessary to protect the child from bodily injury and the child's parents or other adult caretakers are unwilling or unable to protect the child from such injury; and,

3. Authorize removal without prior court approval only if there is not enough time to secure such approval.

Emergency caretaking services should be established to reduce the incidence of removal.

When removal does occur, the child should be delivered immediately to a State agency that:

1. Has been previously inspected and certified as adequate to protect the physical and emotional well-being of children it receives;

2. Is authorized to provide emergency medical care in accordance with specific legislative directives; and,

3. Is required to assure the opportunity for daily visitation by the parents or other adult caretakers.

Within 24 hours of the time the child is removed, the agency responsible for filing petitions should either file a petition alleging that the child is endangered or return the child to the home. If a petition is filed, the court should immediately convene a hearing to determine if emergency temporary custody is necessary to protect the child from bodily injury.

Commentary

This standard governs removal of the child from the home prior to a hearing in which the child is adjudicated endangered. The standard seeks to outline a framework for protecting children who are in genuine physical danger while minimizing the risks of unjustified or detrimental use of emergency procedures. Unwarranted removal can prove extremely traumatic for the child and parents.

To avoid improvident removals, the standard establishes a substantive test for removal—i.e., that the child is threatened with bodily injury and cannot be protected without removal. This is now the standard in many States.

Judicial Approval and Court Hearings

The standard provides that, whenever possible, judicial approval be obtained prior to removal. Such approval may be given without a full-scale formal hearing. However, the court should be given enough facts to determine that the child is in fact physically endangered. Removal may occur without judicial approval only if delay would jeopardize the child.

Regardless of whether or not prior judicial approval is obtained, the agency responsible for bringing petitions must either file a petition alleging that the child is endangered or return the child home within 24 hours of removal. If a petition is filed, the court should immediately conduct a hearing on the necessity for continued custody. Both parents and child should be present at this hearing and both should be represented by counsel.

Other Limitations

The standard also provides a number of other guidelines to insure that any removal is done in a manner likely to minimize the trauma to the child. First, the legislature should determine those types of personnel who are authorized to undertake removal. This power should be restricted to persons capable of evaluating the need for removal and aware of the need to avoid removal wherever possible. Such power might be given to physicians, law enforcement officials and employees of the State Department of Social Services or equivalent State agency. However, States may wish to exclude one or more of the foregoing classes of personnel and limit removal powers to officials specially trained to deal with children.

Second, the standard recommends that all States establish emergency caretaking services. Emergency caretakers come into the home to provide care for the child on a temporary basis, and they should be utilized whenever possible. For example, if the child is in danger by virtue of being left unattended at home, the standard directs that an emergency caretaker be placed in the home until the parents return or enough time elapses to indicate that the parents do not intend to return home. In other cases involving two-parent homes where one parent alone is responsible for abuse, States may even wish to explore the possibilities of removing the offending parent and having a caretaker provide emergency assistance. These approaches are consistent with the overall judgment of these standards that removal of the child is a drastic step and should be avoided whenever other approaches will suffice. Moreover, such procedures should result in substantial cost savings by reducing the incidence of placement of children in out-of-home facilities.

Third, the standard requires that the person undertaking removal immediately deliver the child to a State agency previously inspected and certified as adequate to protect physical and emotional wellbeing. It is pointless to remove a child from a dangerous home situation unless it can be insured that there will be adequate protection in placement. Thus, each State should be required to designate an agency qualified to receive such children. In most cases this should be a branch of the State Department of Social Services or its equivalent. In some situations the appropriate State department may wish to designate a specially qualified local agency to assume these responsibilities. In any case, such agency should be subject to strictly enforced high standards of custodial care, and the adequacy of all facilities should be thoroughly investigated and reviewed periodically.

Fourth, the agency should be required to assure continued and frequent visitation rights for parents or parent surrogates. A major danger of removing the child from the home—particularly in instances of independent removal by a stranger—is that the psychological difficulties of separation may be as damaging as the harm the removal was intended to prevent. By providing the opportunity for parental visitation, however, the dangers of interrupted continuity of relationships may be minimized. The child, though temporarily removed from parental controls, is not removed from contact with parents for any prolonged period.

Provision of Medical Care

When a child has been physically abused or injured by unsafe home conditions or inadequate supervision, it is essential that the agency be authorized to secure emergency medical care. However, when the child's physical danger stems from parental refusal to seek medical care because of religious beliefs, the agency should abstain from medical action and immediately contact the court to convene an emergency hearing under Standard 11.14. Statutes empowering agencies to provide emergency medical treatment should carefully distinguish between these two classes of cases and provide detailed guidelines for the expeditious handling of situations of both types.

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3. McCoid, Arthur. "The Battered Child and Other Assaults Upon the Family," *Minnesota Law Review*, Vol. 50 (November 1965).

4. Paulsen, Monrad. "Child Abuse Reporting Laws: The Shape of Legislation," *Columbia Law Review*, Vol. 67 (January 1967).

Related Standards

The following standards may be applicable in implementing Standard 12.9:

11.14 Need for Medical Care

12.10 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From an Environment Other Than the Home

Standard 12.10

Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From an Environment Other Than the Home

A child who is endangered in an environment other than the home should not be taken into preadjudicatory temporary custody unless such temporary custody is clearly necessary to protect the child from bodily injury and no other satisfactory means is available for providing such protection. When temporary custody occurs, the child should be delivered immediately to the State agency authorized to receive children in cases of emergency removal from the home.

Within 24 hours the agency responsible for filing endangered child petitions should either file a petition alleging that the child is endangered or return the child to the home. If a petition is filed, the court should immediately convene a hearing to determine if temporary custody is necessary to protect the child from bodily injury.

Commentary

This standard relates to a very narrow class of cases. Almost all cases involving pre-adjudicatory temporary custody of children alleged to be endangered will entail removing the child from his home. Those cases are governed by Standard 12.9.

Cases may arise, however, in which the child is endangered in an environment other than the home. For example, a small child may be found wandering near the freeway unattended. In such situations this standard directs that every effort be made to protect the child adequately without resorting to temporary custody. Temporary custody is often extremely traumatic, and it should be avoided whenever possible. Maximum effort should be made to determine promptly the whereabouts of the child's home and return him safely to his or her parents. Further investigation may then be justified to determine if a petition should be filed. Temporary custody would be authorized only if, after returning the child to the home, emergency removal is justified pursuant to Standard 12.9.

However, if it is impossible to determine where the child lives and other means of protection will not suffice, this standard authorizes temporary physical custody. When such custody occurs, the child should be treated in precisely the same way as one who has been removed from the home pending Endangered Child proceedings, with delivery to the same facility and access to the same safeguards for judicial review of the custody decision within 24 hours.

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1. DeFrancis, Vincent and Lucht, Carroll. *Child Abuse Legislation in the 1970's.* Denver: American Humane Association, Children's Division, rev. ed. 1974.

2. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children.* New York: Institute of Judicial Administration (tentative draft 1976).

Related Standard

The following standard may be applicable in implementing Standard 12.10:

12.9 Endangered Children: Preadjudicatory Temporary Custody—Emergency Removal From the Home

Standard 12.11

Detention Hearings

Unless a juvenile who has been taken into custody has been released, a judicial hearing to review the necessity for continued detention should be held within 48 hours from the time he or she was taken into custody.

The detention hearing should conform to due process requirements. It should commence with a judicial determination of probable cause. If the prosecution establishes by competent evidence probable cause to believe that the juvenile has committed the allegedly delinquent act, the court should review the necessity for continued detention. Unless the prosecution demonstrates by clear and convincing evidence that there is a need for continued detention according to detention criteria, the court should release the juvenile upon conditions pending the next judicial proceeding. A court order continuing the juvenile's detention should be supported by written reasons and findings of fact.

If the juvenile's detention continues, a new detention hearing should be held promptly upon motion by the respondent asserting the existence of new or additional evidence. Absent such motions, the court should review the case of each juvenile held in secure detention no less frequently than every 10 court days. Each jurisdiction should provide for an expedited appellate procedure to permit speedy review of allegedly wrongful detention orders. The same judge who sits at a detention hearing should not sit at the adjudicatory hearing without the respondent's consent.

Commentary

The standard recommends a mandatory judicial review of continued detention to be held no later than 48 hours after the youth has been taken into custody. Every effort should be made to hold the hearing on the day of the youth's admission to custody. But in few parts of the country are judges available to sit at detention hearings 24 hours, 7 days a week. Special efforts will be required in many rural areas to comply with this standard. The burden of these efforts must be weighed against the harm to the juvenile of detention that is arbitrary, inappropriate, or unnecessarily prolonged. One must also judge the need for speedy review in light of the child's sense of time. Due to the urgency of a youth's emotional needs, separation from family or familiar surroundings for even 48 hours can have a traumatic impact.

The detention hearing should be held without any request by the juvenile or his family. The certainty of prompt judicial review should operate to discourage unwarranted detention by police and probation staff at initial stages of the process. Probation staff or administrators of detention facilities who have the responsibility to review initial detention decisions should consider the available alternatives to detention and attempt to arrange for the youth's release. To this end, intake services staff should be given sufficient authority and funding to enter into agreements with social agencies and other community groups for appropriate services.

As soon as possible after completion of the initial administrative formalities connected with taking the youth into custody, all necessary participants in the detention hearing—including parents, police, administrative personnel and counsel—should be notified of the time and place of the hearing. The informed participation of counsel is essential to a full and fair detention hearing. Therefore, the courts and defense bar should cooperate to facilitate contact between detained juveniles and legal counsel at the earliest feasible stage. Because the youth is rarely detained at the police station long enough for this contact to occur, the first practical opportunity is likely to be at the detention center. The establishment of programs for easy access to defense counsel at that stage should be encouraged. For example, the public defender or local bar association might hold daily office hours at the juvenile detention center to counsel unrepresented juveniles. Among the proper functions of counsel at this stage are arranging release without the need for a judicial detention hearing, preparing for the detention hearing, and promptly investigating the facts supporting the delinquency charges.

The detention hearing should be conducted in accordance with appropriate due process safeguards. These include such fundamental rights of the juvenile as notice, counsel, the right to be present, and to be accompanied by one's parent or guardian, the privilege against self-incrimination, and the right to cross-examine witnesses for the prosecution.

The standard's recommendation that the detention hearing include an inquiry into probable cause is based on the fourth amendment's prohibition against "unreasonable seizures" of the person. This amendment was recently interpreted by the Supreme Court, in the case of *Gerstein* v. *Pugh*, to require a prompt judicial determination of probable cause whenever a criminal defendant is subjected to any extended restraint on liberty following arrest. Although there is no clear constitutional right to a hearing on probable cause in delinquency cases, the continued detention of a youth should not be ordered without some initial screening of the sufficiency of the charges by a judge. Such screening not only protects the juvenile against continued detention on baseless or unsupported charges, but also conserves judicial resources by avoiding fruitless prosecutions.

The probable cause issue should be heard at the beginning of the detention hearing so that prejudicial information regarding the juvenile's social and court history will not be introduced before the judge decides whether the charges are sound. Although all the available evidence need not be presented, the prosecution should present relevant, competent evidence, rather than hearsay, as to each element of the offense and as to the youth's identity as the perpetrator. It is not necessary at detention rehearings in the same case to reconsider the issue of probable cause.

If the prosecution fails to establish probable cause, the juvenile should be released from detention and the delinquency petition should be dismissed. If probable cause is established, the prosecution must then prove by clear and convincing evidence that the criteria for continued detention are satisfied. To protect the youth's rights and preserve a basis for appellate review, the standard recommends that the court make written findings of fact and of its reasons for ordering continued detention. These findings will supplement the verbatim record that should be made of all family court proceedings.

The standard provides for new detention hearings in two situations. If new or additional evidence bearing upon the youth's continued detention becomes available, he or she should have prompt access to the court for review of detention status. This will often be necessary to accommodate changes in the youth's status or living opportunities that arise in response to the detention crisis. However, even if no rehearing request is made, the family court judge should review all cases of secure detention at least once every 10 days to determine whether continued detention of each youth is necessary and, if so, whether the adjudicatory hearing can be expedited. This is to insure that instances of prolonged detention will come to the court's attention. Family court judges should continually monitor the population size and the conditions of secure detention facilities serving their courts. This information is highly relevant to judicial detention decisions in particular cases.

The standard also provides for appellate review procedures to challenge alleged abuses of discretion by the court ordering a juvenile's detention. The requirement in this standard of a detention hearing within 48 hours is designed to give the youth prompt access to the courts for initial review of his incarceration. However, the very promptness of that hearing also may limit the ability of youth and counsel to prepare arguments adequately and to gather witnesses in support of release. Consequently, this standard establishes a right to appeal any adverse detention decision, including decisions to release the youth on intrusive conditions. This appeal should be for alleged abuse of discretion appearing on the record, rather than for a new evidentiary hearing, and should not be available to challenge the lower court's decision on probable cause.

In urban court systems, detention appeals should be heard within 24 hours of the time an appeal is claimed. In rural areas, every effort should be made to treat such proceedings with urgency. At a detention hearing the judge often learns facts about the juvenile's background that may prejudice his ability to judge the pending charges impartially. Therefore, on respondent's motion, such judge should excuse himself at the adjudicatory stage, if possible. In courts where one judge normally hears all juvenile matters, perhaps other judges could sit at detention hearings. Another arrangement would be to have retired judges or State referees preside. Finally, the fact that a juvenile was detained pending adjudication is itself prejudicial, and should, if possible, be kept from the knowledge of the trial judge until after an adjudication has been made.

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2. *Baldwin* v. *Lewis*, 300 F. Supp. 1220 (E.D. Wis. 1969), rev'd on other grounds, 442 F. 2d 29 (7th Cir., 1971).

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4. *Brown* v. *Fauntleroy*, 442 F. 2d 838 (D.C. Cir. 1971).

5. *Cooley* v. *Stone*, 414 F. 2d 1213 (D.C. Cir. 1969).

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7. District of Columbia Rules Governing Juvenile Court Proceedings.

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10. Goldstein, Freud and Solnit, *Beyond the Best Interests of the Child*. 1973.

11. HEW Model Act (1974).

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13. *In re Contreras*, 109 Cal. App. 2d 787, 241 P. 2d 631 (1952).

14. *In re Edwin R.*, 60 Misc. 2d 355, 303 N.Y.S. 2d 406 (1969).

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18. Krantz, Smith, Rossman, Froyd and Hoffman. *Right to Counsel in Criminal Cases: The Mandate of Argersinger vs. Hamlin*. Ballinger Publishing Co. (1976).

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20. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections* and *Courts*. Washington, D.C.: Government Printing Office, 1973.

21. Sarri, Rosemary C. *Under Lock and Key: Juveniles in Jail and Detention*. University of Michigan, Ann Arbor, Mich.: National Assessment of Juvenile Corrections, 1974.

Related Standards

The following standards may be applicable in implementing Standard 12.11:

12.1	Case Processing Time Frames
12.3	Court Proceedings Before Adjudication in Delinquency Cases
12.4	Juvenile's Initial Appearance in Court
12.5	Petition and Summons
12.7	Criteria for Preadjudicatory Detention of Juveniles in Delinquency Cases
12.12	Conditions of Release
15.7	Presence of Family Court Prosecution at Family Court Proceedings
16.1	Juvenile's Right to Counsel
16.7	Stages of Representation in Family Court Proceedings
22.4	Preadjudicatory Detention Review

Standard 12.12

Conditions of Release

The release of a juvenile from detention should be conditioned upon his or her own promise to appear for subsequent court proceedings. If a juvenile cannot appropriately be released on this basis, release should be based on the least onerous other condition(s) necessary to assure appearance. These may include:

1. Release on the written promise of parent or guardian to produce him or her in court for subsequent proceedings;

2. Release into the care of a responsible person or organization;

3. Release conditioned on restrictions on activities, associations, residence or travel if reasonably related to securing the juvenile's presence in court; and

4. Any other conditions reasonably related to securing the juvenile's presence in court.

The use of bail bonds in any form or any other financial conditions should be prohibited.

Commentary

Under Federal law and most State constitutions, adults accused of crimes may obtain their release pending trial by posting bail. The basic premise of the bail system is that a defendant will remain in the jurisdiction if he is required to post a money bond which would be forfeited by his flight. The bail system, as it is now practiced, has been criticized as discriminatory and irrational. Numerous bail reform projects have demonstrated that viable alternatives to bail do exist. Furthermore, the Federal Bail Reform Act of 1966, the ABA Project on Minimum Standards for Criminal Justice, and the NAC all strongly prefer non-monetary conditions of pretrial release.

The States are divided on whether or not juveniles should be entitled to bail. The standard recommends that bail and financial conditions on release, in any form, should be prohibited in the juvenile justice system. This recommendation is based on the demonstrated inadequacies of the bail system as well as the potential hazards of using financial conditions for juveniles. A juvenile is unlikely to have independent financial resources that could be used to post bail. Even with such resources, he or she could not sign a binding bail bond because a minor is not ordinarily liable on a contract. Consequently, the youth would have to depend on parents or other interested adults to post bond. If an adult posted the bond, the youth's incentive to appear would arguably be defeated, since he or she would not personally forfeit anything upon nonappearance. On the other hand, a parent might refuse to post bail and force the youth to remain in detention. Finally, financial conditions discriminate against indigent juveniles and their families.

Empirical studies of adult criminal defendants have shown that most defendants can safely be released before trial on nothing more than their own promise to appear. Juveniles are probably less mobile than adults, and easier to locate if they default. The standard, therefore, recommends that courts should favor a liberal preadjudication release policy based on the juvenile's promise to appear at a designated time. In many cases, however, especially involving young children, the court will not wish to rely upon the youth's own promise. In these cases, the juvenile should be released to parent or guardian upon that person's written promise to produce him or her for further court proceedings. Normally, no further conditions would be needed to insure the juvenile's appearance. If the court finds that other conditions are necessary, the standard suggests several that might be imposed either individually or in combination. However, any measure that is imposed should be directly related to insuring his or her presence at subsequent proceedings and should not be applied arbitrarily to punish the youth or deprive him or her of liberty. In all cases, the court should impress upon youths that it is their obligation to comply with the conditions, if any, imposed on release and to appear at all subsequent court proceedings.

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2. Bail Reform Act of 1966, 18 U.S.C. 2146, *et seq.*

3. Comment. "Juvenile Right to Bail," *Journal of Family Law*, Vol. II (1971).

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6. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

7. New Mexico Juvenile Court Rules (1975).

Related Standards

The following standards may be applicable in implementing Standard 12.12:

12.11 Detention Hearings
18.1 The Court's Relationship With Law Enforcement Agencies
18.4 The Court's Relationship With the Public

Chapter 13

Adjudication Processes

INTRODUCTION

Once jurisdiction has been established and the preadjudicatory processes completed, the truth or falsity of the allegations in the petition must be determined in accordance with procedures designed to assure fundamental fairness. A petition can be sustained either by the defendant's admission of the allegations or by the finding of a judge following litigation of the case.

The first three standards in this chapter focus on uncontested adjudications. The first standard deals with the controversial subject of plea negotiations. After long and careful deliberation, it is recommended that all forms of plea bargaining should be wholly eliminated from delinquency proceedings (see Standard 13.1). This recommendation, of course, does not prohibit the juvenile from making an admission. It does, however, prohibit bargaining for admissions, i.e., pleas for which the prosecution offers a quid pro quo. The advantages ascribed to the use of plea bargaining in the juvenile system are outweighed by potential abuses, and the purposes of justice can best be served by abolishing this practice altogether. In some jurisdictions, however, this may not be a viable political option at present. Therefore, the commentary on this subject outlines a series of controls that may be used on an interim basis to regulate the abuse of plea negotiations (see Standard 13.1). Where abolition is completely untenable, adoption of these controls is urged.

The second standard in this chapter focuses on accepting admissions to delinquency petitions (see Standard 13.2). When a defendant admits the truth of charges, a number of important rights designed for the defendant's protection are waived. As a result, many States presently require the court to undertake a thorough inquiry to insure that the admission is competently, knowingly, and voluntarily made. It is believed that such an inquiry is essential, and it is recommended that all States implement the procedures outlined in Standard 13.2 in order to insure the propriety of admissions.

The acceptance of an admission raises the corollary issue of the circumstances under which such an admission may be withdrawn. This subject is covered by Standard 13.3, which stipulates that withdrawals should be allowed prior to final disposition for any fair and just reason, and after final disposition to avoid manifest injustice.

Standard 13.4 focuses on contested adjudications and details those procedural rights that should apply to the adjudicatory hearing itself. As noted in the introduction to the judicial process section, following the Supreme Court's 1967 decision in *Gault*, the subject of constitutional guarantees in delinquency proceedings has received widespread consideration by courts and commentators alike. At the adjudicatory hearing, the juvenile alleged to be delinquent should have all the rights given to a criminal defendant except for the right to trial by jury. This approach is consistent with the evolving case law in this area. After careful consideration of the issue, the right to trial by jury is not recommended, because this might impose excessive formality on juvenile proceedings and generate delays in adjudicatory hearings.

The subject of the standard of proof required in delinquency proceedings receives special attention in Standard 13.5. Consistent with the Supreme Court's holding in *In re Winship*, this standard emphasizes the requirement of proof beyond a reasonable doubt—the same proof required in adult criminal cases.

Although the issues raised and the procedures employed in delinquency adjudications should conform to the adult criminal model in most respects, endangered child proceedings present special considerations. These are hybrid cases: nonpunitive, yet not truly civil cases in the traditional sense. To reflect the special nature of these proceedings, two standards on their adjudication have been included. The first recommends that the admissibility of testimony and documentary evidence at the adjudicatory hearing should be governed by the ordinary rules of evidence applicable to the trial of civil matters in courts of general jurisdiction (see Standard 13.6).

The other relates to the standard of proof necessary to sustain an endangered child petition. Consistent with the approach of past standards-setting groups, this report recommends the requirement of proof by clear and convincing evidence (see Standard 13.7).

The final standard in this chapter returns to the subject of delinquency proceedings and focuses on the issue of appeals (see Standard 13.8). The juvenile should be assured of the statutory right to appeal final judgments or orders to insure the correction of trial court errors and to facilitate the uniform application of the law throughout the jurisdiction. All arguments that have led to supplying indigent adults with transcripts for appeal are applicable to juvenile proceedings as well.

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Standard 13.1

Plea Negotiations Prohibited

Plea bargaining in all forms should be eliminated from the delinquency adjudication process. Under no circumstances should the parties engage in discussions for the purpose of agreeing to exchange concessions by the prosecutor for the juvenile's admission to the petition.

Commentary

Most observers of American criminal justice agree that plea bargaining practices seriously impede the fair resolution of cases. Although documentation of similar practices in juvenile courts is lacking, the existence of plea bargaining in the delinquency process cannot be disputed. As Douglas Besharov points out, "The reality of plea bargaining is apparent to anyone who participates in the juvenile process . . . . Even in those juvenile courts where plea bargaining has been absent up to now, the trend of greater reliance on the bargained for admission is as unmistakable as it is unpreventable." [Besharov, *Juvenile Justice Advocacy* (1974), p. 311.]

Having considered the negative consequences of plea bargaining, as well as its alleged benefits, this report recommends that the practice should be wholly and immediately eliminated from delinquency proceedings in family courts. Immediate prohibition, rather than regulation or gradual elimination of plea bargaining, is both sound and practical. Indeed, it is the only effective way to eliminate the evils of the practice.

The standard does not, of course, mean to prohibit all admissions in delinquency proceedings. It does prohibit bargained-for admissions; i.e., admissions for which the prosecution offers a quid pro quo. Such bargains may take various forms. For example, in exchange for an admission the prosecutor might offer to dismiss certain charges, to reduce a charge to state a lesser offense, to recommend a lenient disposition to change a petition to a Family With Service Needs or an Endangered Child petition, or to refrain from seeking a transfer to criminal court. Whenever such concessions are offered by the prosecution or sought by the respondent in exchange for a formal admission, a plea bargain has taken place.

The many problems inherent in such bargaining have been identified by numerous commentators. Most recently, NAC published standards seeking the abolition of plea bargaining in criminal proceedings. In so doing, the commission pointed out that the rights of a number of participants in the criminal process are jeopardized by the entry of negotiated pleas. Each of these problems exists, sometimes with greater severity in the juvenile process, and were considered in formulating the recommendation that plea bargaining should be eliminated.

In the first instance, plea bargaining is inherently coercive for the juvenile respondent. In entering any admission to a petition, whether bargained for or not, the juvenile gives up substantial rights—including the right to avoid self-incrimination, the right to proof beyond a reasonable doubt, and the right to confront witnesses. Pressuring a young respondent to admit to a petition in return for a bargain from the prosecution may encourage the youth to waive those constitutional rights in situations when waiver is not in his or her best interest. In fact, an innocent respondent might be persuaded to admit to guilt in order to avoid the likelihood of a harsher disposition or a worse record if the juvenile is unable to establish innocence. A juvenile's decision whether or not to exercise the right to an adjudicatory hearing, however, should not be influenced, explicitly or implicitly, by such threats.

Moreover, in the juvenile context, both inexperienced and experienced respondents can be unduly coerced by prosecution offers of leniency. Younger children and first offenders will be easily influenced by such offers. Frightened and unsure of their legal guilt, they may seek to avoid the experience of a trial proceeding whenever possible. Street-wise youth, on the other hand, who know they can get a good deal if they bargain with the prosecution, also will be encouraged to do so. In either case, the plea bargaining process is inherently coercive to innocent juveniles, and unduly harsh on respondents who choose to exercise their constitutional right to an adjudicatory hearing.

Participants other than the juvenile are also tempted to act irresponsibly with regard to the entry of admissions under the plea bargaining system. For example, although attorneys handling juvenile cases have a uniquely heavy burden to help their clients make intelligent tactical decisions, they are not immune from pressures. The high caseloads of many public defenders, for example, encourage them to persuade clients to accept a bargain, even though there may be issues that are reasonably subject to dispute. The low fees often paid in delinquency cases to private and court-appointed lawyers render it financially infeasible for them to take many cases to trial. A proliferation of deals for their clients may result. None of these pressures can be relieved while plea bargaining continues. As long as a juvenile can be persuaded by the attorney that he or she is getting a good bargain, the attorney may continue to avoid trials even when the respondent's case has merit. As Albert W. Alschuler points out, "private defense attorneys, public defenders, and appointed attorneys are all subject to bureaucratic pressures and conflicts of interest that seem unavoidable in any regime grounded on the guilty plea. Far from safeguarding the fairness of the plea negotiation process, the defense attorney is himself a frequent source of abuse, and no mechanism of reform seems adequate to control the lawyers." (Alschuler, "The Defense Attorney's Role in Plea Bargaining," *Yale Law Journal*, Vol. 84, p. 1313.)

Similarly, the prosecutor is subject to pressures in the plea bargaining system that are not rationally related to the merits and circumstances of any individual case. It has been well documented that the plea bargaining system invariably engenders overcharging by prosecutors. In order to put the government in the best bargaining position possible, prosecutors may charge higher degrees of crime, or issue more numerous petitions than might be appropriate in the circumstances of a particular case. It then becomes the respondent's burden to bargain the prosecutor down to a more rational petition by threatening to exercise his right to an adjudicatory hearing. The complete prohibition of plea bargaining encourages the use of sound judgment and discretion in deciding which charges can be proved and are appropriate to the individual case.

Caseload pressures also can force a prosecutor, as well as a defense attorney, to agree to a deal that is inappropriate for the case. This can be alleviated by eliminating plea bargaining. As the NAC points out, "Whether a defendant is convicted should depend upon the evidence available to convict him, and what disposition is made of a convicted offender should depend upon what action best serves rehabilitative and deterrent needs. The likelihood that these factors will control conviction and disposition is minimized in the inevitable 'horsetrading' atmosphere of plea negotiation." (NAC, *Courts*, p. 48.)

It is axiomatic, of course, that bargained dispositions of delinquency matters endanger the public's interest in being protected from juvenile crime. To the extent that dispositions are the result of bargains that reflect factors not rationally related to the circumstances of a given case, the public has not been adequately protected. The same is true when leniency is accorded a juvenile because he or she does not assert the right to trial proceedings, rather than because leniency is appropriate.

Ultimately, the most frequent victim of the bargained disposition will be the juvenile. Society and its court system have an obligation to offer young offenders not only compassion, but also rehabilitative programs that are rationally related to their needs. Plea bargaining that results in leniency recommendations from the prosecutor encourages the parties in delinquency proceedings to lose sight of the essential function of the family court. The juvenile's potential receipt of services is jeopardized when counsel to the proceedings attempts, through negotiation, to limit the discretion of the family court judge to make an independent and objective evaluation of the juvenile's needs.

Only the complete abolition of plea bargaining can avoid these inevitable dangers. Other commentators have recommended that the system be regulated, rather than prohibited. Such arguments favoring retention and regulation of plea bargaining have been considered and it has been concluded that they lack persuasive force for the juvenile system.

In summarizing the potential benefits of the plea bargaining system, the President's Commission on Law Enforcement and Administration of Justice identified several considerations: "The negotiated plea serves important functions. . . . Tremendous investments of time, talent and money, all of which are in short supply and can be better used elsewhere, would be necessary if all cases were tried. It would be a serious mistake, however, to assume that the guilty plea is no more than a means of disposing of criminal cases at minimal cost. It relieves both the defendant and the prosecution of the inevitable risks and uncertainties of trial. It imports a degree of uncertainty and flexibility into a rigid, yet frequently erratic system. The guilty plea is used . . . to fix a punishment that more accurately reflects the specific circumstances of the cases. . . ." [President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (1967), p. 135.]

The ABA has considered these factors as well, and recommended in its Standards Relating to Pleas of Guilty that the plea negotiation process be regulated. The U.S. Supreme Court has sanctioned the process for similar reasons: the Court's decision in *Santobello* v. *New York*, 404 US 257 (1971), reflects this position. A minority of members of the National Advisory Committee on Criminal Justice Standards and Goals are in agreement with both the President's Commission on Law Enforcement and Administration of Justice and the American Bar Association.

Because plea bargaining has not yet become as firmly entrenched in the delinquency process as it is in the adult criminal process, it is not believed that the system would be overloaded should plea bargaining immediately be eliminated. It is not suggested that all delinquency petitions should be contested. When appropriate, the juvenile is encouraged to admit to a properly charged petition. Without prosecutorial overcharging, and aided by the sound advice of defense counsel, many cases will undoubtedly be adjudicated by means of an admission without the dubious benefit of a bargain.

The risks and uncertainties of trial can be avoided by devices that are more rational than plea bargaining. The trend toward more liberalized discovery rules in the delinquency process should provide both prosecution and defense with an informed basis for evaluating the probable outcome of an adjudicatory hearing without the need for negotiation. More important, avoiding the risks of trial by plea negotiation is of dubious value, because it implies too little faith in the capacity of judges to perform their duties wisely. As the National Advisory Commission points out, "Where there are reasonably disputable issues, the law should not provide an incentive for a defendant to avoid a full and fair resolution of those issues in an adversary context." (NAC, *Courts*, p. 47.)

Prohibiting the plea bargaining process in family court should not only mitigate the dangers inherent in that practice, but also encourage other desirable goals, such as the careful screening and diversion of juveniles at the intake stage. If the prosecutor knows that once a petition is filed it must be proven, he or she is likely to encourage more careful initial screening of juvenile cases. Similarly, the elimination of plea bargaining encourages the legislature to proscribe behavior more rationally. As James Dean points out, "A careful reevaluation of the types of behavior which should be proscribed through the criminal sanction would be an immense stride toward unclogging the courts, and undercutting the 'practical necessity' rationale (or is it rationalization?) for plea bargaining." [Dean, "The Illegitimacy of Plea Bargaining," *Federal Probation*, Vol. 38, No. 3, (1974), p. 22.]

The prohibition against plea bargaining is not intended to discourage discussions between counsel regarding delinquency cases. Indeed, free and open discussions about the merits of a case are necessary to give the respondent a sound basis for a decision to admit to any particular allegation in a petition. This standard only prohibits discussion with the intent of securing a concession in return for an admission. Good faith on the part of both counsel will be necessary to enforce this prohibition. Similarly, if the prosecutor in good faith realizes that he cannot prove the delinquent act alleged in the petition, he or she may ask the court to reduce or dismiss that petition.

In making the determination to prohibit plea bargaining, the approach of the National Advisory Commission's standards on plea bargaining in the criminal process was considered. That commission, recognizing the widespread existence of plea bargaining, promulgated guidelines to regulate the practice for an interim period of several years before its recommended abolition. It was decided that such a gradual approach should be unnecessary in the context of the family courts. The risk of abuses in family court plea bargaining are so great that no means of regulating the process can effectively prevent them. Because plea bargaining is less widespread in family courts than in criminal courts, there should be no great need for increased resources and personnel should plea bargaining be immediately eliminated. The general absence of jury trials and the relative speed of delinquency proceedings also should make large immediate expenditures unnecessary. Moreover, if delinquency petitions are cautiously drawn, the number of contested adjudications should not significantly increase. For these reasons, it was concluded that complete prohibition of plea bargaining is both necessary and possible, and can be immediately implemented.

There are areas in which plea bargaining is now practiced and will continue to be practiced in the juvenile justice system. Where such plea negotiation practices do exist, the following regulations and safeguards designed to reduce or eliminate, where possible, the abuses currently encountered in the plea bargaining process are recommended.

First, because he is uniquely subject to pressure from parents, police, and others to admit guilt and accept punishment, a juvenile should not be permitted to bargain in his or her own behalf without the opportunity to confer with counsel. Therefore, no plea discussion should occur prior to the juvenile's retention or waiver of counsel. If the juvenile has counsel, plea negotiations should occur only in the counsel's presence. If the juvenile has waived the right to counsel, an attorney should be appointed to observe the plea negotiations on the juvenile's behalf and, if an admission to the petition results, to advise the court as to the voluntariness of that admission. The presence of an auditor in plea negotiation sessions has been recommended for use in criminal matters by the ABA Standards Relating to the Prosecution Function and Defense Function. The auditor's presence serves two purposes: to discourage coercive plea bargaining tactics and to insulate the process from unwarranted claims of coercion at a later time.

Second, plea negotiations should be conducted in private sessions. Juveniles should be able to have their parents present during the negotiations if they so wish. However, juveniles often feel pressured discussing their cases in the presence of their parents. Also, juveniles may wish to disclose certain information to the government that might be helpful to their cases, but that they prefer not to reveal to their parents. Because they should be able to negotiate as freely as possible, juveniles also should have the option to participate in the plea discussions with their parents absent.

Third, the government should conduct plea negotiations through the prosecutor. This allocation of responsibility and control is necessary to avoid inequities in result for similarly situated juvenile respondents, and to implement centrally defined government policy in plea negotiations. The prosecutor should enter into a plea agreement concerning the petition or petitions that may be filed against a juvenile only after he or she has made an independent effort to learn the circumstances of the juvenile's background. This will assure that the prosecutor's decision to enter into a plea agreement will be truly informed and not a matter of expediency.

The prosecutor should undertake plea discussions with both the interests of the State and those of the juvenile in mind, although the prosecutor's primary concern should be the protection of the public interest. The prosecutor should weigh the same elements weighed by the prosecuting attorney in an adult criminal case, with the additional consideration of the juvenile's unique needs and prospects for rehabilitation.

A plea agreement should not be entered into by the prosecutor without the presentation on the record of independent evidence that the juvenile has committed the acts alleged. The prosecutor should neither initiate nor continue plea discussions if the prosecutor is aware that the juvenile maintains his or her innocence. If the juvenile maintains innocence, it is obvious that the plea cannot be voluntary in fact. To engage in plea negotiations in such a situation may ultimately result in perpetrating a fraud on the family court. Because of the unique vulnerability of young people to the pressures that can be placed upon them by parents, friends, relatives, and even their own attorney, the prosecutor should share the responsibility of protecting the youth's privilege against self-incrimination. The rule of *North Carolina* v. *Alford*, 400 U.S. 25 (1970), that a plea of guilty is acceptable, though joined with protestation of innocence, where the defendant persists in the plea and an independent factual basis therefore appears in the record, should not be applied in the family court context.

If prosecutors are unable to fulfill a plea agreement, they should promptly give notice of that fact to the juvenile and his or her attorney. The juvenile should then cooperate in securing leave of the court for withdrawal of the admission, and take such other steps as may be necessary to restore the juvenile to the position he or she was in before the admission was entered.

Fourth, the parties should be able to negotiate only for the purpose of reaching an agreement as to a reduced charge or the dismissal of other petitions. It is not proper under any circumstances for the parties to negotiate with regard to the disposition a juvenile will receive or the particular rehabilitative program the juvenile will enter. Nor should they agree to exclude pertinent social information or court records from the court's knowledge.

Finally, no admission to a delinquency petition that is the result of negotiation among the parties should be entered or allowed to stand unless the family court judge concurs with the agreement reached by the parties. Therefore, although the judge should not participate in plea discussions, the court should inquire of the government, the juvenile, and the juvenile's counsel whether the plea is the result of any negotiation and agreement. If the plea is the result of an agreement, the court should require full disclosure of the substance and basis of that agreement. If the court at any time decides it cannot concur with the agreement, it should allow the juvenile full opportunity to withdraw the plea.

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Related Standards

The following standards may be applicable in implementing Standard 13.1:

15.11 Leadership Responsibility of Family Court Prosecutor
15.12 Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System
15.18 Family Court Prosecutor's Role in Plea Negotiations
16.2 The Role of Counsel in the Family Court
18.1 The Court's Relationship With Law Enforcement Agencies
18.4 The Court's Relationship With the Public
18.5 The Leadership Role of the Family Court Judge

Standard 13.2

Acceptance of an Admission to a Delinquency Petition

Prior to accepting an admission to a delinquency petition, the family court judge should inquire thoroughly into the circumstances of that admission.

The judge should, in the first instance, determine that the juvenile has the capacity to understand the nature and consequences of the proceeding. If a guardian ad litem has been appointed for the juvenile, no admission should be accepted without independent proof of the acts alleged.

The family court judge also should determine whether the admission is knowingly and voluntarily offered. In making such an inquiry, the court should address the youth personally, in simple language, and determine that he or she understands the nature of the allegations in the petition. The court should then satisfy itself that the juvenile understands the nature of those rights waived by an entry of an admission, as well as the consequences of waiving them. It also should inform the juvenile of the most restrictive disposition that could be imposed in the case. By inquiry of the juvenile, the court should then determine that the allegations in the petition are true.

The court should inform the juvenile that negotiated admissions are prohibited and not binding on the court. It should inquire of the juvenile, the juvenile's counsel, and the people's representatives whether any plea agreements have been discussed or concluded. The statements of counsel that no such agreements have been made should appear on the record. No admission that is the result of a plea agreement should be accepted by the court.

By examining the juvenile and the attorney, the court should determine that the juvenile has been fully and effectively represented. No juvenile should receive harsher treatment at any stage of the proceedings for the reason that he or she has contested the delinquency petition.

Commentary

Upon entering an admission, a juvenile gives up several important rights. The waiver of these rights can have a significant effect on the outcome of the proceeding. Unfortunately, however, the serious effect of the waiver of these rights has not been traditionally recognized in family courts. As Besharov notes, in juvenile proceedings "admissions are most frequently made informally and on the basis of an attorney's statement that this client wishes to make an admission." [Besharov, *Juvenile Justice Advocacy* (1974), p. 33.] Because fundamental rights are thereby waived, admissions should not be accepted in a casual and informal manner. Each plea should be carefully scrutinized to insure that the juvenile has competently, knowingly, and voluntarily offered to admit the allegations of the petition.

The court's first concern when an admission is offered should be whether the juvenile has the mental capacity to enter a knowing and intelligent plea. Because of age, a youth's capacity to understand the complex nature of judicial proceedings is always subject to some doubt. Although he or she may have the mental capacity to stand trial, a juvenile may nevertheless be incapable of entering an understanding admission. The court's inquiry into the defendant's social and mental maturity should go beyond the inquiry into mental disease or defect generally made in criminal cases. It also should include such factors as the defendant's age, highest grade level, literacy, fluency in the English language, and prior police and court experience. In making its determination, the court should address the youth personally and, on the basis of the concrete facts elicited as well as the juvenile's apparent understanding of the inquiry, should be able to evaluate whether the juvenile is competent to comprehend the nature of the process.

In some cases, a prior determination that a juvenile is incapable of appreciating the nature of legal proceedings will have been made, and a guardian ad litem will have been appointed. In such a case, the court should not accept any admission on the child's behalf without hearing independent proof that the allegations in the petition are true.

A court is constitutionally compelled to insure that a plea is given voluntarily, with an understanding of the nature of the charge and of the rights waived. In *Boykin* v. *Alabama*, a criminal case, the Supreme Court stated that "it was error, plain on the face of the record, for the trial judge to accept petitioner's guilty plea without an affirmative showing that it was intelligent and voluntary." (395 U.S. at 242.) Many State courts have held that this inquiry is constitutionally compelled for juveniles as well. For example, in *In re M.*, a California court applied *Boykin* to a delinquency proceeding under the compulsion of *Kent* v. *U.S.*, *In re Gault*, and *In re Winship*. The standard also takes the position that a juvenile defendant should be given this protection, and that an affirmative showing of voluntariness should be made in every case in which an admission is entered.

In determining that the admission is voluntarily and intelligently given, the court should first satisfy itself that the juvenile understands the nature of the allegations in the petition. This determination is of particular importance. The Supreme Court stated in *Gault* that "[d]ue process of law requires . . . notice which would be deemed constitutionally adequate in a civil or criminal procedure," (387 U.S. at 33), and has pointed out that "[r]eal notice of the true nature of the charge . . . [is] the first and most universally recognized requirement of due process . . ." *Smith* v. *O'Grady*, 312 U.S. 329, 334 (1941). A family court judge should ascertain that a juvenile has real notice—explaining the charges personally in simple language.

A second essential inquiry into the voluntariness of a plea concerns the juvenile's understanding of those rights waived upon entering that plea. The Supreme Court has discussed the waiver of these rights in the criminal context:

> A defendant who enters such a plea simultaneously waives several constitutional rights, including his privilege against compulsory self-incrimination . . . and his right to confront his accusers. For this waiver to be valid under the Due Process clause, it must be an intentional relinquishment or abandonment of a known right or privilege. *Johnson* v. *Zerbst*, 304 US 458, 464, 58 S Ct 1019, 83 L Ed 1461 (1938). Consequently, if a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. *McCarthy* v. *U.S.*, 394 US 459, 466 (1969).

Several identical fundamental rights that have been guaranteed to juveniles by *Gault* and *Winship* are similarly waived when the juvenile enters an admission: the rights to the privilege against self-incrimination, the right to a trial in which the government must prove its case beyond a reasonable doubt, the right to confrontation of accusers, and the right to appeal. To insure that a waiver of these rights is voluntary and made with full knowledge, the family court judge should explain each of them carefully to the juvenile. In those jurisdictions where the juvenile has the right to a jury trial, he or she should also be informed of that right before entering an admission to the petition.

Finally, the third paragraph of the standard would require the court to inform the juvenile of the most restrictive disposition possible when entering a delinquency plea. The trial court has been directed to so inform a criminal defendant in adult matters. In *Boykin*, the Supreme Court noted that "[w]hat is at stake for an accused facing death or imprisonment demands the utmost solicitude of which courts are capable in canvassing the matter with the accused to make sure he has a full understanding of what the plea connotes and its consequences." (395 U.S. at 243–44.) This solicitude should be afforded a juvenile defendant as well: that he or she understands the dispositional possibilities is essential in voluntary pleas.

Having determined that the plea is voluntarily offered, the court should then determine through inquiry of the juvenile that the allegations of the petition are true. In suggesting this requirement, it is recommended that the court go further than the standard that the U.S. Supreme Court has determined is constitutionally adequate for adults. In *North Carolina* v. *Alford*, the court found that an admission of guilt by the defendant "is not a constitutional requisite to the imposition of a criminal penalty. An individual accused of crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime." (400 U.S. at 37.) "All that the court requires for the entry of a guilty plea in the criminal context is that the trial judge find that there is a factual basis for the plea." (400 U.S. at 38 n. 10.)

The report concludes that no juvenile should be allowed to enter an admission if unable or unwilling to admit to participation in the acts alleged in the petition. This standard seeks to avoid the risk that an innocent respondent will be pressured into an admission—a particularly acute risk when the respondent is very young. Furthermore, because all forms of plea bargaining would be prohibited, no advantage can be gained by an admission, and the juvenile should therefore not feel subject to pressure to admit merely to get a good deal. In requiring the respondent to admit to the truth of the petition, this standard is similar to recommendations made by the NAC and IJA/ABA Juvenile Justice Standards Project, requiring that the trial judge be satisfied that the allegations in the petition are true.

This standard requires that trial judges assure themselves that no such bargains have been entered into prior to accepting an admission. The juvenile should be carefully informed that plea agreements are prohibited and that the court is not bound by any such agreement. The judge should ask the juvenile, the defense attorney, and the prosecution whether any plea agreements have been discussed, and should not accept any admission believed to be the result of plea discussions. The statements of both counsel that no plea discussions have taken place should appear affirmatively on the record. It is contemplated that this record would subject the attorneys to disciplinary proceedings should it later appear that plea bargaining did in fact occur.

This standard recommends, in addition, that during the course of the admission proceeding the family court judge be assured that the respondent has been effectively represented by counsel, unless the right to counsel has been waived. The court should do this by asking the respondent and attorney about the number and length of the conferences between them, the legal and factual preparation completed by the attorney, the advice given the juvenile by counsel regarding the entry of an admission, and any additional matters deemed pertinent. Of course, the court may not require the disclosure of any communication between attorney and client. To the extent that this standard lends greater visibility to the amount of time and effort expended by an attorney on a case, it should encourage greater accountability on the part of that attorney. This in turn should encourage a high degree of competence in the family court bar.

The standard's final provision that juveniles should receive harsher treatment simply because they have contested the delinquency petition is based primarily on the consideration that no one should suffer merely for claiming his rights under the law. It is further believed that such a policy is consistent with and necessary to the prohibitions against plea bargaining continued in these standards. When the court cannot consider the fact of an admission in its disposition of a delinquency case, much of the incentive for the juvenile to engage in plea bargaining is lost. Moreover, the family court judge is under various statutory and constitutional obligations to impose fair and appropriate dispositions in each juvenile case regardless of the respondent's ability to admit involvement in the delinquent act. The judge, therefore, should not consider the decision to contest the petition in making that appropriate disposition.

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Related Standards

The following standards may be applicable in implementing Standard 13.2:

8.3 Judicial Proceedings Heard by a Judge
8.6 Family Court Rules
9.1 Definition of Delinquency
12.3 Court Proceedings Before Adjudication in Delinquency Cases
12.4 Juvenile's Initial Appearance in Court
13.1 Plea Negotiations Prohibited
13.3 Withdrawal of Admissions
14.2 Duration of Dispositional Authority
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.17 Multiple Delinquent Acts
15.8 The Role of Family Court Prosecutor
15.18 Family Court Prosecutor's Role in Plea Negotiations
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.3 The Role of Counsel for the Incompetent Client

Standard 13.3

Withdrawal of Admissions

The family court should allow a juvenile to withdraw an admission for any fair and just reason prior to final disposition of the case. After final disposition, the family court should allow withdrawal of an admission whenever the juvenile proves that the admission was not competent, voluntary, or intelligent; that he or she did not receive the effective assistance of counsel and did not properly waive counsel; or that withdrawal of the plea is necessary to correct any other manifest injustice.

An admission to a delinquency petition that is not accepted or is withdrawn should not be admissible in any subsequent proceeding against the juvenile.

Commentary

Regulation of the withdrawal, as well as the entry, of delinquency pleas is necessary to insure uniformity and fairness in uncontested adjudications. The standard seeks to specify the circumstances under which withdrawal motions should be allowed: before final disposition for any fair and just reason, and after final disposition to avoid manifest injustice. The standard is based on sections of the ABA Standards relating to Pleas of Guilty and the Juvenile Justice Standards Project.

Because the entry of an admission involves the waiver of a number of important rights, a juvenile should retain the ability to withdraw the plea for any fair and just reason prior to the final disposition of the case. This option should not unduly burden the courts; once offered, few admissions will be withdrawn capriciously. It allows a youth to withdraw an admission even when, for example, new evidence is discovered that increases the chances of the case being dismissed at the adjudicatory stage, or when he or she becomes aware of some collateral consequences of adjudication that he or she wishes to seek to avoid.

The second paragraph of this standard would allow a juvenile to withdraw an admission even after disposition of the case in several situations in which it would constitute manifest injustice to allow it to stand. If the family court judge follows the procedures for accepting admissions outlined in the preceding standards, these situations will rarely arise. When they do, however, withdrawal of the admission should be permitted.

Finally, the standard suggests that withdrawn admissions should not be admissible against the juvenile in later proceedings. This is in line with the recommendations of most commentators, including the National Advisory Commission and the ABA Standards Relating to Pleas of Guilty. It would be clearly inconsistent with allowing the juvenile to withdraw an admission if that plea were later admissible. The privilege becomes an empty one, as the prior admission would undoubtedly be given great weight in later determining the juvenile's complicity. Following this reasoning, it is further recommended that in those jurisdictions where it is practicable, a judge other than the one who heard the unaccepted or withdrawn admission should hear all later proceedings in the case.

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Related Standards

The following standards may be applicable in implementing Standard 13.3:

8.3 Judicial Proceedings Heard by a Judge
8.6 Family Court Rules
12.2 Motion Practice
13.1 Plea Negotiations Prohibited
13.2 Acceptance of an Admission to a Delinquency Petition
15.8 The Role of Family Court Prosecutor
15.18 Family Court Prosecutor's Role in Plea Negotiations
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court

Standard 13.4

Contested Adjudications

Adjudications of delinquency petitions should conform to due process requirements. The hearing to determine whether the juvenile is delinquent should be distinct and separate from the proceedings at which—assuming an adjudication of delinquency—a decision is made as to what disposition should be made concerning the juvenile. At the adjudicatory hearing, the juvenile alleged to be delinquent should have all the rights given a criminal defendant except for the right to trial by jury. In addition to the rights specified in Standards 16.1 (Juvenile's Right to Counsel) and 12.3 (Court Proceedings Before Adjudication in Delinquency Cases), the juvenile should have the following rights:

1. To confront and cross-examine witnesses for the State;

2. To compel the attendance of witnesses in his favor;

3. To require the State to prove the allegations of delinquency beyond a reasonable doubt;

4. To have applied the rules of evidence that apply in criminal cases; and

5. Protection against double jeopardy.

Commentary

According to the *Gault* case, the 14th amendment due process clause requires fundamentally fair procedures at the trial stage of delinquency proceedings. Among the procedural rights specifically guaranteed by *Gault* to juveniles are the rights to counsel, to confront and cross-examine prosecution witnesses, to freedom from self-incrimination, and to adequate notice of the charges. Later Supreme Court decisions added two further protections: freedom from double jeopardy (*Breed* v. *Jones*), and a requirement that the prosecution prove the allegations of delinquency beyond a reasonable doubt (*In re Winship*). This standard implements these Supreme Court holdings, and recommends the application of other rights that are necessary in contested cases to realize the goal stated by the Court in the *Kent* case: ". . . the hearing must measure up to the essentials of due process and fair treatment." *Kent* v. *United States*, 383 U.S. 541, 562 (1966). This standard applies only to the adjudicatory stage. The disposition stage is governed by different standards, and should be held separately from the hearing that results in an adjudication.

In addition to the rights mentioned above, the trial stage of delinquency cases should afford to juveniles all the procedural rights enjoyed by criminal defendants, except for the right to jury trial. These include an impartial judge, the presence of the juvenile's parent or guardian, and the assistance of an interpreter when necessary. The juvenile also should have the right to subpena witnesses to testify in his or her favor, and to open the hearing to the public or selected members of the public.

It has been difficult to decide whether the right to a jury trial should apply in delinquency proceedings. Although the jury device is useful in a small proportion of cases, it is believed that this usefulness is outweighed by the disadvantages of a jury trial, including excessive formality and delay. The juvenile's right to a public trial recommended by these standards will do much to compensate for the lack of jury participation in those few cases where the juvenile lacks confidence in the trial judge's impartiality.

Finally, except insofar as these standards recommend the application of special protective rules of evidence (see Standard 12.3 governing the admissibility of a juvenile's statements), the rules of evidence that apply in criminal cases should be applied in delinquency cases. These rules include universal protections such as the exclusion of illegally acquired evidence. They also include rules that vary substantially among the States, such as rules governing the need for corroboration of accomplice testimony, and the admissibility of co-conspiratorial admissions. Most importantly, the application of formal rules of evidence means that the court should admit only competent evidence, relevant to determination of the facts alleged in the delinquency petition. Until the court has made an adjudication in the case, hearsay or irrelevant evidence, such as is usually contained in the social investigation, should not be heard or inspected by the trial judge.

References

1. *Breed* v. *Jones*, —— U.S. ——, 44 L Ed 2d 346, 95 S Ct —— (1975).

2. Davis, Samuel M. *Rights of Juveniles*. New York: Clark Boardman Company, 1974.

3. *In re Gault*, 387 U.S. 1 (1967).

4. *Kent* v. *United States*, 383 U.S. 541 (1966).

5. *McKeiver* v. *Pennsylvania*, 402 U.S. 528 (1971).

6. *In re Winship*, 397 U.S. 358 (1970).

Related Standards

The following standards may be applicable in implementing Standard 13.4:

8.3 Judicial Proceedings Heard by a Judge
9.1 Definition of Delinquency
12.1 Case Processing Time Frames
12.4 Juvenile's Initial Appearance in Court
13.5 Adjudication of Delinquency—Standard of Proof
13.8 Appeals
15.7 Presence of Family Court Prosecutor at Family Court Proceedings
15.8 The Role of Family Court Prosecutor
15.17 Disclosure of Evidence Favorable to Juvenile
15.18 Family Court Prosecutor's Role in Plea Negotiations
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.3 The Role of Counsel for the Incompetent Client
16.4 The Role of Counsel Appointed Guardian Ad Litem
16.5 Representation for Children in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings

Standard 13.5

Adjudication of Delinquency—Standard of Proof

Adjudication of delinquency should be made only when a juvenile has been found beyond a reasonable doubt to have committed an act that would be a crime if committed by an adult.

Commentary

This standard emphasizes the holding of the United States Supreme Court in *In re Winship* (397 U.S. 358, 1970) "that the reasonable doubt standard of criminal law has constitutional stature and that juveniles, like adults, are constitutionally entitled to proof beyond a reasonable doubt when they are charged with a violation of the criminal law." (397 U.S. 358) It is believed that this right to proof beyond a reasonable doubt and the principles in support of it bear special mention because they are essential to the protection of the constitutional rights of juveniles.

A defendant's right to require the State to prove guilt of a criminal charge beyond a reasonable doubt dates from earlier American history and is accepted in all common law jurisdictions as the "measure of persuasion by which the prosecution must convince the trier of all the essential elements of guilt." (397 U.S. 361) "The accused during a criminal prosecution has at stake interest of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by the conviction. Accordingly, a society that values the good name and freedom of every individual should not condemn a man for commission of a crime when there is reasonable doubt about his guilt." (397 U.S. 363-364) "Moreover, the use of the reasonable doubt standard is indispensable to command the respect and confidence of the community in applications of the criminal law." (397 U.S. 364) For these reasons, the Supreme Court in *Winship* decided that the due process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he or she is charged.

The Supreme Court extended the *Winship* holding to juveniles charged with an act that would be a crime if committed by an adult. The court reiterated its previous statement in *In re Gault* (387 U.S. 1, 1967) that "[a] proceeding where the issue is whether the child will be found to be a 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution." (387 U.S. 37) It then stated that when there is a charge of an act that would be a crime if committed by an adult, affording the juvenile the right to proof beyond a reasonable doubt will not destroy any of the unique and beneficial aspects of the juvenile court. Furthermore, even though a particular juvenile may be exhibiting a general pattern of behavior that indicates he or she could benefit from court intervention, "that intervention cannot take the form of subjecting the child to a stigma of a finding that he violated the criminal law and to the possibility of institutional confinement on proof insufficient to convict him were he an adult." (397 U.S. 367)

References

1. *In re Gault*, 387 U.S. 1(1967).
2. *In re Winship*, 397 U.S. 358 (1970).

Related Standards

The following standards may be applicable in implementing Standard 13.5:

9.1 Definition of Delinquency
13.4 Contested Adjudications
13.8 Appeals
16.2 The Role of Counsel in the Family Court

Standard 13.6

Endangered Children—Rules of Evidence

The adjudicatory phase of Endangered Child proceedings should be conducted in accordance with the general rules of evidence applicable to the trial of civil cases in the courts of general jurisdiction where the petition is filed.

Commentary

This standard stipulates that the admissibility of testimony and documentary evidence in the adjudicatory phase of Endangered Child proceedings should be governed by the ordinary rules of evidence applicable to civil matters in the jurisdiction where the petition is filed. Thus, a finding that a child is endangered must be based on sworn testimony or other competent evidence subject to cross-examination by all parties.

This is presently the law in a number of jurisdictions, and in recent years this position has received increasing support from courts and commentators. Some jurisdictions, however, still allow fact finders to rely on hearsay evidence in the form of confidential information in social reports to determine the existence of neglect. In keeping with the recommendations of a number of past standards setting groups, this standard states that such practices be discontinued.

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1. Browne, Elizabeth and Penny, Lee. *The Non-Delinquent Child in Juvenile Court: A Digest of Case Law*. Reno: National Council of Juvenile Court Judges, 1974.

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3. Campbell, Catherine. "The Neglected Child: His and His Family's Treatment Under Massachusetts Law and Practice and Their Rights Under the Due Process Clause," *Suffolk Law Review*, Vol. 4 (Spring 1970).

4. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children*. New York: Institute for Judicial Administration (tentative draft 1976).

5. Note, "Child Neglect: Due Process for the Parent," *Columbia Law Review*, Vol. 70 (March 1970).

6. Sheridan, William and Beaser, Herbert. *Model Acts for Family Courts and State-Local Children's Programs.* Washington, D.C.: Government Printing Office, 1975. (DHEW Publication No. OHD/OYD 75-26041.)

Related Standards

The following standards may be applicable in implementing Standard 13.6:

11.9 through 11.15 (Statutory Bases for Intervention)

Standard 13.7

Endangered Children—Standard of Proof

In the adjudicatory phase of Endangered Child proceedings, the burden should rest on the petitioner to prove by clear and convincing evidence that the child is endangered as defined in Standards 11.9 through 11.15.

Commentary

This standard is consistent with the approach of all major standards-promulgating organizations that have considered this issue in the past. It calls for proof by "clear and convincing evidence" that the criteria for intervention are applicable to the child.

Endangered Child proceedings are not susceptible to a simple labeling as either civil or criminal. Rather, they involve two sets of competing interests: the interests of the parent and the child in being free from unwarranted intervention and the interests of the State and the child in insuring that children will be protected from serious harm. Thus, neither the civil preponderance of the evidence standard nor the criminal requirement of proof beyond a reasonable doubt seems appropriate. The standard requiring proof beyond a reasonable doubt does not provide the child with adequate protection. This is especially true in physical abuse cases, because it is often impossible to get conclusive evidence that an injury was inflicted nonaccidentally. On the other hand, given the substantial parental rights being challenged, and the possible harms to the child from intervention, it is appropriate to require clear and convincing evidence that the child is, in fact, endangered before authorizing coercive intervention.

References

1. Burt, Robert. "Forcing Protection on Children and Their Parents: The Impact of Wyman v. James," *Michigan Law Review*, Vol. 69 (June 1971).

2 Katz, Sanford; Howe, Ruth-Arlene and McGrath, Melba. "Child Neglect Laws in America," *Family Law Quarterly*, Vol. 9 (Spring 1975).

3. National Conference of Commissioners on Uniform State Laws. *Uniform Juvenile Court Act.* Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

4. Sheridan, William and Beaser, Herbert. *Model Acts for Family Courts and State-Local Children's Programs.* Washington, D.C.: Government Printing

Office, 1975 (DHEW Publication No. OHD/OYD 75–26041).

5. Weinstein, Noah. *Legal Rights of Children.* Reno: National Council of Juvenile Court Judges, 1974.

Related Standards

The following standards may be applicable in implementing Standard 13.7:

11.9 through 11.15 (Statutory Bases for Invention).

Standard 13.8

Appeals

Any juvenile aggrieved by a final order or judgment should be entitled to appeal to the appropriate appellate court. The appeal should be heard upon the files, records and transcript of the evidence of the family court. If the juvenile is financially unable to purchase a transcript of the family court proceedings, a transcript should be furnished, or as much of it as requested, upon filing of a motion stating financial incapacity. To avoid publication, the name of the juvenile should not appear in the record on appeal.

Commentary

Although the United States Constitution does not require the States to furnish appeals, the overwhelming majority of States provide juveniles with a statutory right to appeal. Appellate review is essential to rectify trial court errors in individual cases. Such review also facilitates consistent interpretation and uniform application of case law throughout the jurisdiction. Therefore, Standard 13.8 emphasizes that all States should provide juveniles with the right to appellate review of final orders or judgments.

It is intended that the juvenile should appeal to the same court that reviews decisions of the highest court of general trial jurisdiction. Moreover, with the qualifications noted in the standard, the appeal procedures should be governed by the same statutory framework. As to the scope of review, the standard indicates that argument and deliberation should be based on the files, records, and transcript of the evidence of the family court. This stipulation is meant to prevent de novo proceedings involving the presentation of new evidence on appeal and indicate that appropriate weight should be given to the findings of the family court.

Despite the widely acknowledged importance of appellate review,

> By and large the juvenile court system has operated without appellate surveillance. . . . Two factors contribute substantially to the lack of review. The absence of counsel in the great majority of cases is the first. . . . The other important factor is the general absence of transcripts of juvenile court proceedings. [President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime* 40 (1967).]

The provision of counsel for appeal is addressed elsewhere in this volume (see Standard 16.7 *supra*). Standard 12.3 focuses on the issue of transcripts. It is important that family court proceedings be routinely transcribed and that the juvenile be furnished with those records of the proceedings needed for appeal. If the minor is unable to pay for a transcript, one should be furnished at public expense upon a declaration of financial incapacity. All of the arguments that have led to supplying indigent adults with transcripts apply with equal force to juvenile proceedings.

The only revelant distinction from the analogy of adult criminal records is generated by the confidential nature of juvenile proceedings. To avoid publication, the juvenile's name should not appear in the record on appeal.

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1. National Conference of Commissioners on Uniform State Laws. *Uniform Juvenile Court Act*. Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

2. National Juvenile Law Center, St. Louis University School of Law. *Law and Tactics in Juvenile Cases*. St. Louis: National Juvenile Law Center, (2d ed.) 1974.

3. Paulsen, Monrad and Whitebread, Charles. *Juvenile Law and Procedure*. Reno: National Council of Juvenile Court Judges, 1974.

4. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

5. Sheridan, William, and Beaser, Herbert. *Model Acts for Family Courts and State-Local Children's Programs*. Washington, D.C.: Government Printing Office, 1974 (DHEW Publication No. OHOD/OYD 75-26041).

Related Standards

The following standards may be applicable in implementing Standard 13.8:

9.5 Waiver and Transfer
10.3 Scope of Jurisdiction
12.1 Case Processing Time Frames
12.3 Court Proceedings Before Adjudication in Delinquency Cases
12.11 Detention Hearings
13.2 Acceptance of an Admission to a Delinquency Petition
13.3 Withdrawal of Admissions
13.4 Contested Adjudications
14.8 Imposition and Order of Disposition
14.21 Modification of Dispositional Orders
15.8 The Role of Family Court Prosecutor
16.2 The Role of Counsel in the Family Court
16.7 Stages of Representation in Family Court Proceedings

Chapter 14
Dispositions

INTRODUCTION

The next stage after adjudication is the dispositional process. In many respects it is the most important phase of juvenile proceedings and yet few States provide comprehensive guidelines for it. Typically the statutes stipulate only that the disposition should be made "in the best interests of the child and for the protection of the community." Such open-ended formulations provide little guidance for the judge in the exercise of discretion and so may lead to widely varying or even inequitable treatment of similarly situated youths. All States should undertake comprehensive revisions of their juvenile disposition statutes. This chapter sets forth the basic directions which such revisions should take.

The chapter begins with an intensive examination of dispositions in delinquency cases. The first four standards set forth general directives and philosophical premises that underlie the entire process. Initially, they detail the purposes of dispositions and stipulate that dispositional authority should not exceed the juvenile's 21st birthday (Standards 14.1 and 14.2). Then they emphasize the obligation to act fairly and avoid arbitrariness, underscoring eight general requirements of effective delinquency dispositions (Standard 14.3). Next, the standards focus on selection of the least restrictive alternative. They indicate that the court should select the least coercive disposition appropriate to the seriousness of the delinquent act, as modified by the degree of culpability evident in the particular case and by the age and prior record of the juvenile (Standard 14.4). This latter principle also has been endorsed by a number of past standards-setting groups and should be a cardinal feature of all juvenile dispositions.

The next four standards focus on dispositional information, hearings, and orders. The scope of information considered at dispositional hearings typically differs from adjudicatory proceedings. The judge is generally provided with an investigative report on the juvenile's problems and needs as well as dispositional resources available. The information standards indicate what information should be gathered, appropriate sources, issues of relevancy, and the criteria for diagnostic studies and commitments (Standard 14.5). The standards also establish guidelines for disclosure of this information to prosecution and defense attorneys and the juvenile (Standard 14.6). Next the standards discuss formal dispositional hearings, outlining the procedures necessary to assure the essentials of due process and fair treatment (Standard 14.7). The standards also provide guidelines for imposing dispositional orders. Consistent with the principle of employing the least restrictive alternative, they require the judge to set forth on record his reasons for selecting a particular disposition and rejecting less coercive measures (Standard 14.8).

A series of nine standards then focuses on the appropriate nature and duration of dispositions, operationalizing the general principles presented at the beginning of the chapter. The standards outline the types of dispositions that should be available to the court, ranging in severity from nominal to conditional to custodial (Standards 14.9, 14.10, 14.11, and 14.12). Next they indicate that legislatures should classify delinquent conduct into different classes that reflect substantial differences in seriousness of the delinquent acts. Four such classes are recommended, ranging from Class I (misdemeanors) through Class IV (delinquent acts for which the adult system would authorize death or imprisonment for life or a term in excess of 20 years). The standards then prescribe appropriate statutory maximums for the type—nominal, conditional, or custodial—and duration of dispositions for each class of delinquent act (Standards 14.13 and 14.14). They also specifically enumerate the criteria the court should employ in selecting a disposition (Standard 14.15). In order to insure a disposition with realistic potential for assisting the offender, the standards then indicate that, once the type and duration of disposition have been determined, the needs and desires of the juvenile should govern the selection of a particular program, activity, or facility within the type specified (Standard 14.15). The standards then set forth general limitations on dispositions, requiring the court to find that the juvenile is not only adjudicated delinquent but also in need of supervision and proscribing inappropriate forms of dispositions (Standard 14.16). As a whole, these nine standards provide fairly specific guidelines and directions for selecting the appropriate disposition in a particular case. In contrast to the ill-defined criteria currently employed, these formulations should provide a system that facilitates even-handed application.

The next two standards focus on specific types of cases and dispositions. They set forth guidelines for cases involving multiple delinquent acts (Standard 14.17), and discuss appropriate procedures for handling the special problems of mentally ill or mentally retarded juveniles (Standard 14.18).

Four standards then outline the mechanics of implementing dispositional orders, assuring the provision of services, and modifying and enforcing orders. They indicate the State correctional agency's responsibilities in the provision of services, and specify appropriate action in cases where access to services is not provided (Standard 14.19). They also emphasize that institutions and homes should approximate the home life of nonadjudicated juveniles as closely as possible and set forth the right to services (Standard 14.20). In addition, the standards indicate the appropriate procedures for modifying orders because of inequity, the failure to provide access to services, or good behavior (Standard 14.21). For cases in which the juvenile fails to comply with a dispositional order, the standards outline a range of procedures designed to induce compliance (Standard 14.22).

The remaining standards in the chapter focus principally on Families With Service Needs and Endangered Child cases. They outline dispositional alternatives in Families With Service Needs proceedings and prohibit confining such children in institutions to which delinquents are committed (Standard 14.23), and establish criteria for orders of responsible self-sufficiency whereby the juvenile is emancipated before majority. Such orders likely will be rarely used—probably in connection with parental authority disputes in Families With Service Needs cases. But they should be a dispositional option in all juvenile proceedings (Standard 14.24).

The remaining standards in the chapter focus exclusively on the Endangered Child. The absence of adequate services is one of the most pressing problems in this area. Therefore, the standards begin by listing the types of services that minimally should be available to the court in these cases. The standards establish criteria for selecting dispositions, emphasize use of the least coercive alternative adequate to protect the child, and authorize removal only when it is necessary to protect the child from the type of harm that precipitated intervention (Standards 14.25, 14.26, and 14.27). The standards also set forth fairly detailed guidelines for initial agency plans in an attempt to improve the effectiveness of service programs and out-of-home placements (Standards 14.28 and 14.29).

The three remaining standards focus on postdispositional monitoring of Endangered Children. One of the central failures of the present system has been that children placed in temporary foster care often remain there for many years and are not provided with new stable family homes. To cope with this problem, the standards require judicial hearings to review the status of children in care at least every 6 months (Standard 14.30). They further specify that the test for determining if a child should be returned to the family should be whether he or she would be endangered by the harm precipitating intervention if returned home (Standard 14.31). Finally, the standards indicate that laws governing termination of parental rights should be based on the child's need for a stable family home, rather than principles of parental fault. Therefore, they state that, if the child cannot be returned home, parental rights generally should be terminated within 6 months after placement for those less than 3 years of age and within 1 year for those older than 3—unless the case falls within certain well-defined exceptions criteria (Standard 14.32).

References

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5. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: Standards for Removal of Children From Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights," *Stanford Law Review*, Apr. 1976, vol. 28.

Standard 14.1

Purpose of Dispositions

The purpose of a juvenile delinquency disposition should be to determine that course of action which will develop individual responsibility for lawful behavior through programs of reeducation. This purpose should be pursued through means that are fair and just; recognize the unique physical, psychological, and social characteristics and needs of juveniles; and give juveniles access to opportunities for normal growth and development, while insuring that such dispositions will:

1. Protect society;

2. Deter conduct that unjustifiably and without excuse inflicts or risks substantial harm to individual or public interests;

3. Maintain the integrity of the substantive law proscribing certain behavior; and

4. Contribute to the proper socialization of the juvenile.

Commentary

This standard is based on the premise that little is known about the specific causes and cures of crime and delinquency. At one time, behavioral and social scientists were expected to eventually identify the causes and help develop public policy to remove them. Instead, the efforts of science have illuminated the complexity and virtual insolubility of the problems in the causes and prevention of delinquent behavior. Some commentators feel there is little society can do to reduce such behavior.

Because of that uncertainty about the causes and cures of delinquency, defining the purpose of a correctional system is difficult. Over the years, various factions have urged different purposes for corrections. Some claim the purpose is retribution or deterrence; others say it is rehabilitation. Each has been tried. Rehabilitation has been most recently in vogue. Claims have been made that it may have harmed rather than helped young people. Leslie Wilkins, James Robison, E. Shur, D. Glaser, Andrew von Hurst, Clarence Schrag, M. Q. Warren, and Ted Palmer have amassed substantial research questioning the treatment model's effectiveness. Despite such critical research findings, supporters of rehabilitation argue that the failure to date does not compel abandonment of the ideal but rather the development of new and better attempts.

This standard is intended to encourage the development of more meaningful ways of providing rehabilitation programs while at the same time attempting to deter conduct that inflicts harm to people or property. This standard is consistent with the support and maintenance of substantive laws proscribing certain behavior but also attempts to promote the development of individual responsibility for lawful behavior on the part of offenders by providing them with reeducation opportunities.

The standard emphasizes the need to create a system that both operates fairly and equitably and is perceived to be fair and equitable by the young people it affects. Above all, the foundation upon which any disposition must rest is the need to protect society.

References

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2. Griffith. Review of Parker's "The Limits of the Criminal Sanction," *Yale Law Journal*, 1970, pp. 1326, 1388.

3. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Dispositional Standards* (Linda Singer, Reporter). 1976.

4. Martinson. "Can Corrections Correct?" *The New Republic*, Apr. 8, 1972, pp. 14–15.

5. Shur, E. *Radical Non-Intervention: Rethinking the Delinquency Problem*. 1973.

6. Singer, Linda. "Sending Men to Prison: Constitutional Aspects of the Burden of Proof and the Doctrine of Least Restrictive Alternative as Applied to Sentencing Determinations," *Cornell Law Review*, 1972, vol. 58.

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8. The National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

9. Title and Logan. "Sanctions and Deviance: Evidence and Remaining Questions," 7 *Law and Society Rev.*, Spring 1973, pp. 371–392.

10. Wilkins, Leslie. *Evaluation of Penal Measures*, p. 78. 1969.

11. Wilson. "Crime and the Criminologist," commentary, pp. 47–48. July 1974.

Related Standards

The following standards may be applicable in implementing Standard 14.1.

3.15 Education—Supportive Services
9.5 Waiver and Transfer
14.2 Duration of Dispositional Authority
14.4 Selection of Least Restrictive Alternative
14.5 Dispositional Information
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.14 Limitations on Type and Duration of Dispositions
14.15 Criteria for Dispositional Decision
14.16 Limitations on Dispositions—General
14.18 Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles
14.19 Provision of Dispositional Services
14.20 Right to Services
14.21 Modification of Dispositional Orders
19.1 Purposes of Juvenile Corrections
23.1 Organization

Standard 14.2

Duration of Dispositional Authority

The family court dispositional authority over a juvenile who has been adjudicated a delinquent should not exceed the juvenile's 21st birthday.

Commentary

Most States already have laws that authorize family or juvenile courts to adjudicate juvenile cases only to age 18 but allow jurisdiction over dispositions to age 21. This standard agrees with that position.

There are sound reasons for extending family court dispositional jurisdiction beyond 18. Many cases are adjudicated shortly before the juvenile reaches 18. In these cases, little purpose is served by ordering dispositions calling for rehabilitative treatment that is automatically ended when the juvenile reaches 18. This weakening of family court dispositional authority would bring substantial pressure to bear to transfer all or most of these cases to the adult criminal court prior to adjudication.

Although there are good reasons for permitting the family court to retain dispositional jurisdiction over juveniles who have passed their 18th birthdays, there is no need to authorize it to adjudicate juveniles for new offenses committed after 18. Offenders past the age of 18 should be subject to the processes of adult courts. But this standard does not suggest that a family court disposition already in force should automatically terminate if the juvenile commits a criminal offense after age 18. There is no good reason to end the family court dispositional authority simply because a juvenile on probation or under some other supervisory authority of the family court commits a minor criminal offense resulting in a fine or light sentence. However, a person over 18 still subject to a family court dispositional order may commit a serious felony. In these cases, retention of family court dispositional authority probably would be inappropriate.

There are also sound reasons for setting a reasonable age limit at which family court dispositional jurisdiction should end. Unnecessary retention of jurisdiction beyond 18 can deny juveniles their full rights as adults—rights to which other individuals of the same age are fully entitled. Also, dispositional authorization may vary between adult and family courts. For example, an adult convicted of petty theft would be under adult court authority for a maximum of 1 year in several States. A juvenile charged with the same offense could be under family court jurisdiction for a much longer period.

This standard should not be read as suggesting that, once family court dispositional jurisdiction is assumed, it should automatically extend to age 21. Indeed, there is substantial reason to adopt much shorter periods of jurisdiction for most acts at the earlier age levels. This standard is aimed at giving family courts the leeway to determine and exercise the best disposition for each individual case. The cutoff point at age 21 will provide the leeway.

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5. U.S. Department of Health, Education, and Welfare, Welfare Administration, Children's Bureau. *Standards for Juvenile and Family Courts.* Washington, D.C.: Government Printing Office, 1966.

6. 18 U.S.C. 5005, *et seq.* (1969).

Related Standards

The following standards may be applicable in implementing Standard 14.2:

9.2 Minimum Age for Family Court Delinquency Jurisdiction
9.3 Maximum Age for Family Court Adjudicative Jurisdiction
9.4 Time at Which Jurisdiction Attaches
9.5 Waiver and Transfer
14.4 Selection of Least Restrictive Alternative
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.14 Limitations on Type and Duration of Dispositions
14.21 Modification of Dispositional Orders

Standard 14.3

Requirements for Postadjudicative Juvenile Delinquency Dispositions

A disposition is coercive when it limits the freedom of action of the adjudicated juvenile in any way that is distinguishable from that of a nonadjudicated juvenile and when failure or refusal to comply with the disposition may result in further enforcement action.

A disposition is noncoercive when it in no way limits the freedom of action of the adjudicated juvenile and no further enforcement action can result out of the disposition. A noncoercive disposition always must include unconditional release.

The imposition of any coercive disposition by the State imposes the obligation to act with fairness and to avoid arbitrariness. This obligation includes the following requirements:

1. Adjudicated Violation of Substantive Law. No disposition may be imposed unless there has been an adjudicated violation of the substantive law.

2. Specification of Disposition by Statute. No disposition may be imposed unless pursuant to a statute that proscribes the particular disposition with reasonable specificity.

3. Procedural Regularity and Fairness. The disposition and implementation of all dispositions should conform to standards governing procedural regularity and fairness.

4. Information Concerning Obligations. Juveniles should be given adequate information concerning the obligation imposed on them by all coercive dispositions and the consequences of failure to meet such obligations.

5. Legislatively Determined Maximum Dispositions. The maximum severity and duration of all coercive dispositions should be determined by the legislature, which should limit them according to the seriousness of the offense for which the juvenile has been adjudicated and the degree to which the juvenile has previously been involved in delinquent activities.

6. Judicially Determined Dispositions. The nature and duration of all coercive dispositions should be determined by the family court at the time of disposition within the limitations established by the legislature.

7. Availability of Resources. No coercive disposition should be imposed unless the resources necessary to carry out the disposition are shown to exist. If services required as part of a disposition are not available, an alternative disposition no more severe should be employed.

8. Physical Safety. No coercive disposition should subject the juvenile to unreasonable risk of physical harm.

Commentary

This standard first defines a coercive disposition and a noncoercive disposition. A discussion of the requirements for a coercive disposition follows.

Adjudicated Violation of Substantive Law

This represents a restriction against the imposition of sanctions without a legally proved violation of specific, written laws. This principle is a basic part of our legal structure and is embodied in the notice requirements of the due process clause of the 5th and 14th amendments of the U.S. Constitution.

Specification of Disposition by Statute

This requirement provides that no penalty for the violation of a provision of the delinquency statutes may be imposed unless the disposition is specifically described in the code.

Procedural Regularity and Fairness/Information Concerning Obligation

The possibility of further enforcement action if the juvenile upon failure to comply with a coercive disposition makes it particularly important that the juvenile be informed sufficiently and precisely as to what is expected. Only in this way can the juvenile conform his or her conduct to the dispositional requirements.

The ABA standards are similar in that they require that "the conditions of probation should be sufficiently precise so that probation officers do not in fact establish them." The probationer would have the right to apply to the sentencing court for clarification. The American Law Institute also formulated a requirement that probation conditions be stated with sufficient specificity to enable the offenders to guide their behavior accordingly.

Legislatively Determined Maximum Dispositions

A Criminal Code for Juveniles that serves as a model for legislative action is contained in the IJA/ABA volume on juvenile crime. The emphasis in this standards project is on the role of the courts and administrative agencies in selecting, implementing, and enforcing dispositions within the maximum durational limits.

Judicially Determined Dispositions

This requirement prohibits correctional authorities and administrative agencies, courts, or parole boards from independently altering the nature or duration of a juvenile's disposition without a judicial order. There would be two exceptions to this as envisioned in Standard 14.21—reduction because the disposition is inequitable and reduction for good behavior. This prohibition would apply only to changes from one category or subcategory of disposition to another, not to changes among placements or programs within a category.

Under this standard, the automatic continuation of jurisdiction until juveniles adjudicated delinquent reach the age of majority would be abandoned. It is anticipated that this provision will cause length of dispositions to be reduced, not lengthened. This standard posits several arguments against indeterminate and discretionary release on parole. One is that administrators and correctional authorities should not be allowed to alter judicially imposed sentences because this fosters the disparate treatment of similar conduct. Another argument is based on the fact that indeterminacy creates anxiety in the delinquent because the exact nature and duration of the dispositions are unknown. Additionally, it is felt that indeterminacy introduces unregulated discretion into the system. Recent studies have focused on the vast and unchecked power that parole boards have over offenders' freedoms.

Availability of Resources

During the dispositional stage, facilities and services must be known and available to avoid continued detention while correctional staff search for such resources. There will be no better time to realistically plan for the delinquent's placement than at this stage. Once it has been determined that a youth's needs can best be met by a certain placement, that youth cannot be subsequently placed in a more coercive environment simply because the initial placement is unavailable.

The philosophy espoused by this standard has been set forth in a number of Federal court decisions at both the appellate and Supreme Court levels.

Physical Safety

This provision is intended to preclude the use of unsafe situations as dispositional alternatives. Such situations may arise through the use of facilities or staffing patterns that fail to protect juveniles from themselves or others. The family court would have the authority to remove a juvenile from any situation considered unsafe (see National Advisory Commission on Criminal Justice Standards and Goals, NCCD, *Model Act for the Protection of the Rights of Prisoners*, and American Law Institute, *Model Penal Code*).

References

1. American Assembly. *Prisoners in America*, p. 93. 1973.

2. American Law Institute. *Model Penal Code—Part III on Treatment and Correction*, sec. 303.6, 304.7. 1962.

3. American Law Institute. *Model Penal Code*, sec. 301.1(4). 1962.

4. Citizens' Inquiry on Parole and Criminal Justice, Inc. *The New York State Parole System, Preliminary Draft*. 1974.

5. 18 U.S.C.A., sec. 5012.

6. Frankel, Marvin E. *Criminal Sentences: Law Without Order*, p. 96. 1972.

7. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Dispositional Standards* (Linda Singer, reporter). 1976.

8. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Probation*, sec. 3.1 (approved draft). New York: Institute of Judicial Administration, 1970.

9. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*, standards 2.4, 2.5. Washington, D.C.: Government Printing Office, 1973.

10. National Council on Crime and Delinquency. *Model Acts for the Protection of the Rights of Prisoners*, sec. 2, 3. New Jersey: National Council on Crime and Delinquency, 1972.

11. *Robinson* v. *United States*, 474 F. 2d 1085, 1091 (10th Cir. 1973).

Related Standards

The following standards may be applicable in implementing Standard 14.3:

9.1 Definition of Delinquency
14.2 Duration of Dispositional Authority
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.10 Nominal Disposition
14.11 Conditional Disposition
14.12 Custodial Disposition
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.15 Criteria for Dispositional Decision
14.17 Multiple Delinquent Acts

Standard 14.4

Selection of Least Restrictive Alternative

In choosing among statutorily permissible dispositions, the court should employ the least coercive category and duration of disposition that are appropriate to the seriousness of the delinquent act, as modified by the degree of culpability indicated by the circumstances of the particular case, age and prior record of the juvenile. The imposition of a particular disposition should be accompanied by a statement of the facts relied on in support of the disposition and the reasons for selecting the disposition and rejecting less restrictive alternatives.

Commentary

This standard provides for findings of dispositional fact that should be supported by a preponderance of the evidence, a statement of the weight given to certain facts, and specification of the reasons for selecting a particular disposition and rejecting less severe ones. Adherence to this standard will serve to inform the juvenile and others involved of the reason for a particular disposition. It also should provide guidance for future cases that hopefully can be cataloged into more specific dispositional guidelines for the judiciary's use.

This standard advocates dispositional alternatives that encroach minimally on delinquents' lives. Such attempts have been previously described as the frugality of punishment, economy of intervention, and the least drastic alternative. All of these characterizations require the State to demonstrate that a chosen course bridging personal liberties is the least drastic means of achieving a desired end. It should be noted that the burden of persuading the court that less severe dispositional alternatives would be inappropriate in a particular case rests with the State and not the juvenile.

References

1. Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*, p. 194. 1789.

2. Committee for the Study of Incarceration. *Preliminary Draft*, ch. 6, pp. 3–4. 1974.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*, sec. 5.2. Washington, D.C.: Government Printing Office, 1973.

4. Singer, Linda. "Sending Men to Prison: Constitutional Aspects of the Burden of Proof and the Doctrine of Least Restrictive Alternative as Applied to Sentencing Determinations," *Cornell Law Review*, 1972, vol. 58.

Related Standards

The following standards may be applicable in implementing Standard 14.4:

3.29 Justice System—Diversion
4.3 Use of Least Coercive Alternative
14.1 Purpose of Dispositions
14.3 Requirements for Postadjudicative Juvenile Delinquency Dispositions
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.15 Criteria for Dispositional Decision
14.17 Multiple Delinquent Acts
14.21 Modifications of Dispositional Orders
19.1 Purposes of Juvenile Corrections
23.1 Organization

Standard 14.5

Dispositional Information

Information that is relevant and material to disposition should be gathered by representative of the state acting on behalf of the family court. The sources of dispositional information, the techniques for obtaining it, and the conditions of its use should be subject to legal rules.

Copies of the predispositional report should be supplied to the attorney for the juvenile and the family court prosecutor in sufficient time prior to the dispositional hearing to permit careful review and verification if necessary.

Dispositional information should be shared with those charged with correctional or custodial responsibilities, but it should not be considered a public record.

The handling of dispositional information matters should be governed by the following principles:

1. Investigation: Timing. Investigation by representatives of the state for the purpose of gathering dispositional information may be undertaken whenever it is convenient to the correctional agency responsible, but under no circumstances should it be turned over to the court until the adjudicatory proceedings have been completed and the petition sustained.

2. Questioning the Juvenile. The juvenile may be questioned by representatives of the state concerning dispositional information but the juvenile should first be informed of the purpose of the questioning, the intended uses of the information, and the possible dispositional consequences which may ensue. The juvenile should have access to counsel or an adult parent or guardian upon whom he or she relies prior to any such questioning in order to insure voluntariness and an informed judgment concerning the providing of information.

3. Information Base.

a. The information essential to a disposition should consist of all details, whether in aggravation or mitigation, concerning the present offense; the juvenile's age and identity; and any prior record of adjudicated delinquency and the disposition thereof.

b. Information concerning the social situation or personal characteristics of the juvenile, including the results of psychological testing, psychiatric evaluations, and intelligence testing may be considered as relevant to the disposition.

c. The social history report should indicate clearly the sources of information, number of contacts with such sources and when made, and the total time expended on investigation and preparation.

d. The juvenile's feelings and attitudes concerning his or her present situation as well as any victim's statements also should be included.

4. Diagnostic Commitments. If diagnostic information is sought, then any form of confinement or institutionalization should be used only as a last resort. A hearing should be held to indicate why such confinement or institutionalization is necessary and what nonconfining alternatives were explored and with what result.

An order for confinement and examination should be of limited duration with a maximum of 30 days allowed. The orders should specify the nature and objectives of the proposed examination as well as the place where such examination is to be conducted.

Commentary

This standard outlines what dispositional information is gathered, its sources, issues of relevancy, and its sharing and availability.

In questioning the utility of dispositional information, the objective is not to discredit the collection and use of relevant data but to challenge those who subscribe to a "more is better" philosophy, believing it improves the quality of decisionmaking. Further, the commitment to that philosophy has real costs in terms of money, the allocation of other scarce resources, and the privacy of juveniles and those closest to them. This philosophy also can draw out problems of racial and class bias in seemingly objective tests, and a tendency to accept judgments and predictions of future conduct where real expertise simply is lacking.

Dispositional information should be collected in a regulated manner in order to prevent a common practice—the premature disclosure of such information to the judge and the creation of needless prejudice at the adjudication stage (see *In re Cory*).

Provision is made that dispositional information should not be considered a public record. The intent is to impose a general limitation on access by private and public agencies and individuals. The information is designed for dispositional decisions and for the use of those with postdisposition correctional functions to perform.

Investigation

This standard is designed to insure the separation of the adjudicatory and dispositional phases and thus guard against the premature disclosure of information relevant to disposition but irrelevant and quite possibly prejudicial to the adjudicatory decision.

The prohibition envisioned by this standard refers to the disclosure of both newly developed facts and items consolidated from existing records. Any confusion on a given set of facts should be resolved in favor of the basic objective of reducing the opportunity for prejudice at the adjudicatory stage, thereby according respect to the juvenile's rights of silence and privacy.

Questioning the Juvenile

The major objectives of this part of the standard are (1) to prevent the use of coercion or the promise of reward in obtaining the juvenile's cooperation and (2) to insure that the juvenile is aware of the dispositional consequences of providing such information. In view of this, an adjudicated juvenile has the right not to cooperate as a source of dispositional information and any cooperation shall be based on informed consent.

Historically, juveniles have been judicially recognized as being particularly susceptible to the influence of those in authority (see *Gallegos* v. *Colorado*). Consistent with this is the concern that any participation by juveniles be voluntary and informed, even if such participation would be tactically advantageous to them.

Those seeking to question a juvenile on a dispositional matter must first insure that the juvenile has had an opportunity to consult with an attorney or an adult parent or guardian upon whom he or she relies. This requirement rests on the premise that dispositional information can either ameliorate or aggravate the dispositional decision. A juvenile should not have to face an adult investigator without adult advice concerning how to proceed. The person conducting the questioning must record that the juvenile was informed of the possible adverse consequences of providing the information sought.

Information Base

The main thrust of this part of the standard reaffirms the principle that dispositional information is distinguishable from adjudicatory information. It also indicates that information concerning the social situation and personal characteristics of the juvenile may be useful in a particular case but that acquisition of such information is not mandatory.

It is felt that the social history report must contain information that will enable the judge and counsel for the juvenile to determine how much time and effort were expended and which sources were consulted. The kind of information that is relevant and helpful in arriving at a suitable disposition cannot be separated from the goal or goals sought by the disposition and, to some extent, the nature of the dispositional discretion afforded the judge.

Particular caution must be exercised when dealing with information based on any prior record of adjudicated delinquency. This would not include items of information such as warnings, arrests, gang membership, and unsupported charges. By excluding this type of information, the disposition report hopefully will reflect less prejudice to the juvenile. Despite this, the dispositional judge still must guard against drawing conclusions of previous misconduct from any information on conduct that has not resulted in official action.

Along with the juvenile's right to refrain from providing information to a State investigator who prepares the disposition report is the right of the juvenile to have the report reflect his or her feelings and attitudes. The juvenile must have every opportunity to explain or mitigate the present circumstances.

Diagnostic Commitments

This portion of the standard represents a modest effort to insure some procedural regularity with respect to the right to privacy and, because institutionalization is employed, the deprivation of liberty. The intent of this standard is that a hearing be held to determine the need for confinement. The burden is on the State to demonstrate that nonconfining alternatives have been explored. If such alternatives are available but rejected, the reasons must be provided. If the alternatives are not available, a statement to this effect should be made.

If confinement is adjudged appropriate, it should be limited in duration. It is felt that confinement for diagnostic purposes should not exceed 30 days. Continued confinement beyond this limit should be ordered only after a hearing has established the need for it.

All orders for diagnostic confinement should specify the nature and objectives of the proposed diagnosis to enable correctional staff to accomplish its mission in the most timely and nonconfining fashion. The order also should specify where the diagnosis is to be conducted.

References

1. American Law Institute. *Model Penal Code, Articles on Suspended Sentences, Probation and Parole.* 1962.

2. *Gallegos* v. *Colorado*, 370 U.S. 49 (1961).

3. *In re Cory*, 72 Cal. 115 (1968).

4. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Dispositional Standards* (Linda Singer, reporter). 1976.

5. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Probation*, sec. 5.1. New York: Institute of Judicial Administration, 1970.

6. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

7. IX *Psychiatric News* 1, 1974.

Related Standards

The following standards may be applicable in implementing Standard 14.5:

12.3 Court Proceedings Before Adjudication in Delinquency Cases
14.1 Purpose of Dispositions
14.6 Sharing and Disclosing of Information
14.18 Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles
15.19 Dispositions—Requirement of Taking an Active Role
16.1 Juvenile's Right to Counsel
19.5 Specific Responsibilities
21.3 Dispositional Report
28.1 Collection and Retention of Information on Juveniles
28.2 Access to Juvenile Records
28.3 Children's Privacy Committee
28.4 Computers in the Juvenile Justice System
28.5 Sealing of Juvenile Records

Standard 14.6

Sharing and Disclosing of Information

No dispositional decision should be made on the basis of a fact or opinion not previously disclosed to the lawyer for the juvenile and any lawyer representing the State. In unusual circumstances, the judge may elect to caution the attorney not to disclose information to the juvenile if it appears that such information may prove harmful to the juvenile.

Commentary

This standard creates a broad right to disclosure of dispositional information to the attorney for the juvenile and to any attorney representing the State. The disclosure of such fact or opinion should be made sufficiently in advance of the dispositional hearing to be of meaningful use to the attorney(s).

A strong argument has often been made that some information may be harmful to the juvenile and so disclosure must be denied. The possibility of such harm is very real; however, this must not be interpreted as condoning an absolute denial of disclosure. The judge and the juvenile's attorney must use discretion as to which items of information are so sensitive that their potential for harm outweighs any procedural guarantees accorded by disclosure.

The right of disclosure encompassed by this standard is neither an abstraction nor an effort to provide scrutiny by one not connected with the court. This right is based on the guarantee to a full dispositional hearing and the right and duty of counsel to rebut and challenge any facts or opinions on which a dispositional decision is made. This standard provides that any attorney appearing for the State has an equal right of access to dispositional information. This right is, of course, subject to the applicable privileges of attorney/client and doctor/patient when information is given in confidence to the juvenile's attorney or doctor.

References

1. American Law Institute. *Model Penal Code,* Proposed Official Draft, sec. 7.07. 1962.

2. Cohen, Fred. "Sentencing Probation, and the Rehabilitative Ideal: The View from *Mempa* v. *Rhay,*" *Texas Law Review*, 1968, vol. 47.

3. "Disclosure of Pre-Sentence Reports in Federal Court: Due Process and Judicial Discretion," *Hastings Law Journal*, 1975, vol. 26.

4. *Kent* v. *United States,* 383 U.S. 541, 563 (1966).

5. "Sentencing Under the Federal Youth Corrections Act: The Interpretive Conflict Concerning

Judicial Discretion," *Catholic University Law Review*, Spring 1974, vol. 23.

6. *Sorrels* v. *Steele*, 506 P. 2d 942, 945 (OK Crim. 1973).

Related Standards

The following standards may be applicable in implementing Standard 14.6:

14.5 Dispositional Information
15.19 Dispositions—Requirement of Taking an Active Role
16.1 Juvenile's Right to Counsel
28.1 Collection and Retention of Information on Juveniles
28.2 Access to Juvenile Records
28.3 Children's Privacy Committee
28.4 Computers in the Juvenile Justice System
28.5 Sealing of Juvenile Records

Standard 14.7

Formal Dispositional Hearing

After adjudication, a full dispositional hearing with a record made and preserved should be held. A dispositional hearing may be conducted immediately after the adjudication hearing but not later than 30 days in the discretion of the court. The court should provide written notice to the proper parties as to the date, time, and place of such hearing and do so sufficiently in advance of the hearing to allow adequate time for preparation.

The parties should be entitled to compulsory process for the appearance of any persons, including character witnesses and persons who have prepared any report to be utilized by the judge, to testify at the hearing.

The court should first be advised concerning any stipulations or disagreements on dispositional facts and then allow the representative for the State and then the attorney for the juvenile to present evidence concerning the appropriate disposition.

The attorney for the juvenile and the representative for the State may question any documents and examine and cross-examine witnesses including any person who prepares a report concerning the juvenile which is before the court.

Commentary

This standard embraces the basic due process components of a right to notice and hearing. In most jurisdictions dispositional hearings are either accepted practice or required by statute. A California court has held that the right to a dispositional hearing is basic and that its denial violates due process and constitutes prejudicial error. Some authorities have interpreted *Kent* v. *United States* as suggesting that dispositional decisions in the juvenile court must, on constitutional grounds, be preceded by a hearing.

The parties must be given written notice of the date, time, and place of the hearing in sufficient time to adequately prepare. If all the parties to the proceeding agree, the dispositional hearing may be held immediately after the adjudication hearing. But, in any event, it must be held not later than 30 days after the adjudication hearing.

Compulsory process is a necessary component of the right to a hearing. It facilitates the presentation of evidence through witnesses. Thus, when written reports are submitted, the parties or their counsel must be afforded an opportunity to cross-examine those individuals who made the reports. Given the significance likely to be attached to such reports and given the questionable relevance of material likely to be included, counsel must have the opportunity to examine the preparer. Of particular interest is how information was obtained, from whom, the link between facts and conclusions, the tests or examinations performed and their reliability and validity, and the experience and background of the witness. It is felt that if information is to be provided that may affect the juvenile's liberty, stigmatize him, and accompany the juvenile to other agencies, such information must be accurate, relevant, and material.

The provisions of this standard as to stipulations, examinations, and cross-examinations, although achieving regularity, are not encumbered as in a trial hearing. This standard is consistent with ABA standards in that it gives the parties an opportunity to assure that the court's information is accurate and that factors that they think are relevant to the sentencing decision will come to its attention.

References

1. *In re Mikkleson*, 226 Cal. App. 467, 38 Cal. Rpt. 106, 107 (1964).

2. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Sentencing Alternatives and Procedures* (approved draft). New York: Institute of Judicial Administration, 1968.

3. *Kent* v. *United States*, 383 U.S. 541, 563 (1966).

4. Paulsen, M. G., and Whitebread, C. H. *Juvenile Law and Procedure*, p. 171. 1974.

5. Uniform Act, sec. 29(d).

6. Zinskin, Jay. *Coping With Psychiatric and Psychological Testimony*, 2d ed. 1975.

Related Standards

The following standards may be applicable in implementing Standard 14.7:

8.3 Judicial Proceedings Heard by a Judge
12.1 Case Processing Time Frames
15.9 Conflicts of Interest
16.1 Juvenile's Right to Counsel

Standard 14.8

Imposition and Order of Disposition

The judge should determine the appropriate disposition as expeditiously as possible after the hearing. When the disposition is imposed, the judge should:

1. Make specific findings on all controverted issues of fact and note the weight attached to all significant facts in arriving at the disposition;

2. State for the record, in the presence of the juvenile, the reasons for selecting the particular disposition and the objective or objectives to be achieved thereby, pursuant to Standard 14.1;

3. Where the disposition is other than a reprimand and release, state for the record those alternative dispositions, including particular places and programs, which were explored and the reasons for their rejection; and

4. State with particularity, both orally and in the written order of disposition, the precise terms of the disposition which is imposed, including the nature and duration of the disposition and the person or agency in whom custody is vested and who is responsible for carrying out the disposition.

Commentary

This standard has several objectives. First, it is designed to improve the quality of justice and dispositional decisionmaking. The court is required to make findings on controverted issues of fact and indicate the weight attached to all significant dispositional facts. In addition to fact finding, the judge is required to provide the reason for the selection of any disposition and determine the objectives to be achieved.

These provisions are designed to facilitate the appellate review of dispositions. One of the objectives of this type of appellate review is the development of a body of dispositional principles. In the absence of a completed record as provided in this standard, effective review is impossible.

Although no specific time is mandated for the determination and execution of the order of disposition, it is anticipated that the judge can arrive at a decision very soon after the proceedings are completed. But the standard is flexible enough to allow for such activities as the additional investigation of a placement, reflection in a particularly difficult case, and evaluation of a substantial change in circumstances. The rule, however, should be to effect a speedy, concrete, and definite dispositional order.

The judge should make specific findings on all controverted issues of fact, thus providing for the open and recorded resolution of them. Even if significant dispositional facts are not controverted, the judge is to indicate for the record the weight attached to all of them in arriving at the dispositional decision.

What this requirement envisions is not a point-by-point summary and weighing of every evidentiary item before the court. Rather, it asks the judge to isolate and identify facts such as prior records, aggravating or mitigating circumstances, and restitutive efforts in arriving at the actual dispositional decision. This causes the judge to individualize the decision and discourages generalized summaries.

The judge is also required to state in the presence of the juvenile the reasons for a particular disposition, as well as its objectives. This is consistent with a writer's recent statement that the due process clause of the Federal Constitution should be construed as requiring that each sentencing decision be accompanied by a written statement of reasons for the sentence and the supporting facts relied upon. The requirement of reasons is not dependent on any particular philosophical view concerning the objectives of juvenile dispositions. Rather, it is intended to provide some control over the judge's discretion.

This standard also contains the least drastic alternative rule. In exercising dispositional discretion, the judge should be guided by the presumption of minimal interference in the life of the juvenile. Thus, the judge must move from considerations of nominal sanctions to custodial dispositions, if appropriate, and under this section indicate what was considered and the reason for rejection.

The precise terms of the disposition imposed by the judge must be stated with particularity whether oral or written. This is an effort to avoid overly broad dispositional orders that may carry with them harmful collateral consequences that could be avoided if the order were more narrow.

References

1. Arthur and Gauger. *Disposition Decisions: The Heartbeat of the Juvenile Court*, pp. 58–61. 1974.

2. Berkowitz, M. D. "The Constitutional Requirement for a Written Statement of Reasons and Facts in Support of the Sentencing Decision: A One Process Proposal," *Iowa Law Review*, 1974, vol. 60.

3. *R.L.R.* v. *State*, 487 P. 2d 27, 45 (Alaska 1971).

4. *State ex rel. Palagi* v. *Freeman*, 81 Mont. 132, 262, p. 168 (1972).

Related Standards

The following standards may be applicable in implementing Standard 14.8:

14.5 Dispositional Information
14.7 Formal Dispositional Hearing
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.15 Criteria for Dispositional Decision
19.1 Purposes of Juvenile Corrections
19.3 Provision for Services
19.4 General Authority and Responsibility for Services

Standard 14.9

Dispositions Available to the Court for Juveniles Adjudicated Delinquent

There should be three types of dispositions that a family court may impose upon a juvenile adjudicated to have committed a delinquent act. Ranked from least to most severe, they are:

1. Nominal. In which the juvenile is reprimanded, warned, or otherwise reproved and unconditionally released;

2. Conditional. In which the juvenile is required to comply with one or more conditions, none of which involves removal from the juvenile's home; and

3. Custodial. In which the juvenile is removed from his or her home.

Commentary

This standard establishes dispositions that could be imposed by the court once a juvenile has been adjudicated delinquent. The nominal disposition assumes that the mere experience of being adjudicated delinquent is sufficient sanction in the circumstances in which it is utilized. Conditional dispositions include a number of services and programs that either are of a financial nature or involve some degree of community service or supervision. A suspended disposition also would be a conditional disposition. A custodial disposition involves removing the juvenile from his or her home.

The dispositions outlined in this standard are discussed in detail in the following three standards.

Related Standards

The following standards may be applicable in implementing Standard 14.9:

14.4	Selection of Least Restrictive Alternative
14.10	Nominal Disposition
14.11	Conditional Disposition
14.12	Custodial Disposition
14.16	Limitations on Dispositions—General
14.17	Multiple Delinquent Acts
19.1	Purposes of Juvenile Corrections
19.3	Provision for Services
19.4	General Authority and Responsibility for Services
23.1	Organization

Standard 14.10

Nominal Disposition

In a nominal disposition, the family court should specifically set forth in writing its warning or reprimand to the juvenile and its unconditional release of the case.

Commentary

For some juveniles, particularly first offenders, the mere experience of being adjudicated delinquent may be a sufficient sanction. This can be coupled with reprimand and warning. The juvenile and all other parties must clearly understand that a nominal disposition includes an unconditional release.

Related Standards

The following standards may be applicable in implementing Standard 14.10:

14.9	Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13	Classes of Delinquent Acts for Dispositional Purposes
14.14	Limitations on Type and Duration of Dispositions
14.16	Limitations on Dispositions—General
19.4	General Authority and Responsibility for Services

Standard 14.11

Conditional Disposition

In a conditional disposition, the family court should specifically set forth in writing the condition or conditions of its order and assign responsibility to a person or agency for carrying out the disposition. Conditions should not involve removal from the juvenile's home nor interfere with the juvenile's schooling, regular employment, or other activities necessary for normal growth and development. Conditional dispositions should fall within the following general categories:

1. Financial

a. Restitution

i. Restitution should be directly related to the delinquent act, the actual harm caused, and the juvenile's ability to pay.

ii. The means to carry out a restitution order should be available.

iii. Either full or partial restitution may be ordered. Repayment may be requested in a lump sum or in installments.

iv. Consultation with victims may be encouraged but not required. Payments may be made directly to victims or indirectly through the court.

v. The juvenile's duty for repayment should be limited in duration. In no event should the time necessary for repayment exceed the maximum jurisdiction permissible for the delinquent act.

b. Fine

i. Imposition of a fine is most appropriate in cases in which the juvenile has derived monetary gain from the delinquent act.

ii. The amount of the fine should be directly related to the seriousness of the delinquent act and the juvenile's ability to pay.

iii. Payments of a fine may be required in a lump sum or installments.

iv. The juvenile's duty of payment should be limited in duration. In no event should the time necessary for payment exceed the maximum term permissible for the delinquent act.

2. Community Service

a. If the court orders a juvenile to perform community service, the judge should specify the nature of the work and the number of hours required.

b. The amount of work required should be related to the seriousness of the juvenile's delinquent act.

c. The juvenile's duty to perform community service should be limited in duration. In no event should the duty to work exceed the maximum duration permissible for the delinquent act.

3. Community Supervision

a. The court may order the juvenile to a pro-

gram of community supervision, requiring him or her to report at specific intervals to a community supervision officer or other designated individual and to comply with any reasonable conditions that are designed to facilitate supervision.

b. The court may order the juvenile to a program of day custody, requiring him or her to be present at a specified place for all or part of every day or of certain days.

c. The court may order the juvenile to a community program of academic or vocational education or counseling, requiring attendance at sessions designed to afford access to opportunities for normal growth and development.

d. The duration of community supervision should not exceed the maximum permissible for the delinquent act.

e. This standard does not permit the coercive imposition of any program that may have harmful effects.

4. Suspended Disposition

a. The court may suspend imposition or execution of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by him or her and specified in the dispositional order.

b. Such conditions should not exceed, in severity or duration, the maximum sanction permissible for the delinquent act.

Commentary

For some juveniles a conditional sanction is needed to deter future juvenile misconduct through a series of alternative services and programs. Conditional sanctions either are of a financial nature or involve some degree of community service, supervision, or a suspended disposition.

Restitution is an appropriate sanction when the youth profited financially by the delinquent act and the victim can be compensated. It can serve to lessen the alienation between the youth and the victim and between the youth and society because it forces the realization that a specific person has been hurt and needs to be compensated.

Any restitution ordered should be directly related to the juvenile's delinquent act, the actual harm caused, and, when money restitution is ordered, the juvenile's ability to pay (see *People* v. *Becker* and *Karrel* v. *United States*).

This standard recognizes the beneficence of restitution in kind; for example, a juvenile repairs damages caused by his vandalism or removes graffiti that has defaced property. This form of restitution is often the most appropriate.

If a juvenile is being required to make monetary restitution, then it is the court's responsibility to ascertain whether or not there is a job available for the juvenile. A juvenile without funds or without the ability to generate such funds will not be discriminated against. Either full or partial restitution can be ordered by the court in an attempt to tailor the order to fit the juvenile's individual situation. There will be times when sometimes full financial repayment is clearly beyond the juvenile's means, thus partial or symbolic restitution may suffice (see Galaway and Hudson).

If the court orders monetary restitution, along with the necessary employment arrangements, then a portion of the juvenile's earnings can be paid either directly to the victim or indirectly through the court. Under certain circumstances the juvenile may be able to engage in some work benefiting the victim. Restitution may be the sole sanction, or it may be ordered in conjunction with any other appropriate sanction, as long as the total does not exceed the statutory maximum for the delinquent act.

Fines are appropriate for the same reasons and under the same conditions as restitution, except that the compensation element is missing. When possible, restitution is preferable because it more firmly asserts the social aspects of the delinquent act. Fines provide an alternative to institutionalization and can be easily adjusted to fit the means of the juvenile and the gravity of the delinquent act. Fines are readily remissible and can be paid back in cases of injustice.

It is recommended that fines be considered as a dispositional alternative primarily in cases in which the juvenile has financially profited by the delinquent act. The juvenile should be required to disgorge any profit that has been realized. The standard's requirement that the amount of the fine be directly related to the seriousness of the delinquent act adheres to the principle of limited intervention. Thus, the fine levied against a juvenile convicted of armed robbery should be greater than that levied against a first-time shoplifter.

Tailoring the method of payment to the means of the individual can help alleviate injustice. This can be done by devising flexible collection plans. For some, lump sum payments would be both feasible and desirable, while for others payments would have to be made in installments. The most flexible fine sanctions would be those payable within a specified period of time and in specified installments.

A dispositional order of community service serves much the same social purposes as does restitution. Involvement with the community and an opportunity to work cooperatively with other people are among the possible benefits to the youth of such an experience. The prescribed time limits insure that disruption of the youth's school and employment responsibilities will be minimal.

The use of community service as a dispositional sanction seems to be more prevalent than the literature indicates. Community service dispositions are made by both State and Federal courts. They are intended to benefit the community, to enable the juvenile to make some form of restitution, and to help the juvenile develop greater responsibility for individual actions, appreciate the value of work, and learn to work with other people.

Work assignments should be for the general welfare of the community, within the juvenile's ability, and related to the nature of the delinquent act. The type of work and the number of hours required must be related to the seriousness of the delinquent act. The duration of a community service order should not be longer than would be the duration of the juvenile's duty to fulfill a restitution or fine order.

Community supervision does not result in disruption of the youth's life as much as removal from the home does. Conditions or limitations are imposed on the youth's activities in the hope of encouraging positive behavior and a less alienated and more self-respecting and responsible outlook.

Under this standard, the court may order a juvenile to a program of day custody. Representative of such programs would be afterschool activity centers. Such centers are particularly suited for individuals whose delinquent acts occur during leisure hours or while parents are away from home at work. Day custody requires that the juvenile report to and remain in a specified place for all or part of every day or of certain days. The juvenile's attendance at the facility is required solely for the purpose of supervision although programs of tutoring, recreation, and self-improvement may be provided on a voluntary participation basis.

This standard also permits coercive imposition of community programs, such as vocational training, special education courses, and various types of therapy. Although many experts feel that purely voluntary participation in remedial programs is preferable to coercive imposition, there is ample justification for incorporating the coercive element into this standard. The primary consideration for requiring participation is that it provides the family court with another dispositional alternative that may dissuade it from relying on custodial sanctions.

Requiring a juvenile's participation in a remedial program must be considered a sanction. Its effect is punitive regardless of the benevolent motives of the sentencing judge. As such, required participation is subject to the restraints on all coercive dispositions. The duration of time a juvenile may be required to participate in any remedial program must be related to the seriousness of the delinquent act and in no event may it exceed the maximum permissible for the act. Programs that may have harmful effects may not be imposed under this standard.

The suspended disposition posits that the juvenile has agreed to abide by certain specified conditions. This standard should permit great flexibility in fashioning conditions acceptable to the juvenile and the correctional authorities. The suspended sentence provides an opportunity for the juvenile to demonstrate responsible behavior and thus avoid the imposition of the suspended disposition.

Various groups have advocated use of the suspended disposition. The National Council on Crime and Delinquency's Model Sentencing Act authorizes courts to "suspend the imposition or execution of sentence, with or without probation, for most crimes." The ABA has stated, "A conditional suspension of sentence . . . can effectively suffice in many cases. . . ." The American Law Institute *Model Penal Code* also authorizes suspended dispositions.

Related Standards

The following standards may be applicable in implementing Standard 14.11:

- 14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
- 14.13 Classes of Delinquent Acts for Dispositional Purposes
- 14.14 Limitations on Type and Duration of Dispositions
- 14.16 Limitations on Dispositions—General
- 19.3 Provision of Services
- 19.4 General Authority and Responsibility for Services
- 23.1 Organization
- 23.2 Nature of Services
- 23.3 Formulation of Services Plan
- 23.4 Level of Services

Standard 14.12

Custodial Disposition

In a custodial disposition, the family court should specifically set forth in writing the condition or conditions under which a juvenile will be removed from his or her home and assign responsibility to a person or agency for carrying out the disposition. The court may order whether the placement should be within or outside of the juvenile's community and the level of custody (secure-nonsecure) that must be maintained.

In making a custodial disposition, the family court should utilize the following criteria:

1. There should be a presumption against coercively removing a juvenile from his or her home, and this category of sanction should be reserved for the more serious or repeated delinquent acts. It should not be used as a substitute for a judicial finding of Families With Service Needs or Endangered Child. These findings should conform to the standards for those two categories of cases.

2. A custodial disposition normally should not be used simultaneously with other sanctions. However, this does not prevent the imposition of a custodial disposition for a specified period of time to be followed by a conditional disposition for a specified period of time, provided that the total duration of the disposition does not exceed the maximum duration permissible for the delinquent act.

3. Custodial confinement may be imposed on a continuous or an intermittent basis, not to exceed the maximum period permissible for the delinquent act. Intermittent confinement includes: night custody, weekend custody, and custody during school vacation periods.

4. Levels of custody include but are not limited to nonsecure residences including foster homes, group homes, halfway houses, camps, ranches, schools; and secure facilities.

Commentary

For the purposes of this standard, the Committee for the Study of Incarceration's definition of custody will be used—"collective residential restraint." Restraint means restriction to a specified, narrowly circumscribed place where individuals are placed without their consent and which they cannot quit if they wish. A residential facility is simply one in which the individual must live, a place which, along with those charged with its operation, "largely determines the character of his activities and the quality of his life." By collective, the committee means "that the person must live there in the immediate company of others, not members of his family or persons of his own choosing."

The disadvantages of incarceration in large, secure institutions have been documented at length. The stated ideal of reeducating young people to become valuable and self-respecting members of society cannot be achieved in a regimented, highly restrictive and degrading atmosphere in which meaningful relationships with other people are virtually impossible, and where youths are isolated completely from the society to which they are expected to return and function. Such large institutions, isolated from the community, are not recommended. Smaller, more personalized, secure institutions should be available for youths.

This standard adopts the presumption against custodial dispositions, realizing that removal from the home is a most drastic sanction. The U.S. Supreme Court has frequently recognized the right of family members to remain in close contact.

In view of the severity of this sanction, it should be reserved for the most serious or repetitive delinquent acts, and rarely, if ever, used for younger juveniles. Removal from the home is more likely to be damaging for younger juveniles. The presumption against custodial dispositions for these youths is even stronger than for older juveniles.

The custodial sanction is exclusive and may not be employed simultaneously with other sanctions. A custodial disposition for a specified period of time may be followed by a conditional disposition for a specified period of time, provided the total disposition does not exceed the maximum duration permissible for the delinquent act. Because of this provision, a judge may be persuaded to award only minimal custody coupled with a conditional disposition. This gives the judge the opportunity to mitigate the harshness of a custodial disposition and at the same time assist the juvenile in integration into the community.

This standard allows custody to be either continuous or intermittent. Intermittent confinement requires a juvenile to be restricted to a designated residential facility only for specified hours. In the United States, continuous confinement is the norm and intermittent confinement seldom used. There is precedent for using this disposition for juveniles considering that the courts have been placing adjudicated delinquents in group and foster homes for years. From these placements the youths are permitted to go to school and work and are free of 24-hour security. Detention is recommended during those times when the juvenile would be most tempted to engage in delinquent behavior: at night, on weekends, and during school vacation periods. The ABA has recommended the use of partial confinement for offenders.

Two levels of custody are proposed under this standard: nonsecure residences and secure facilities. Placement of juveniles in residences is preferred, and the courts are encouraged to consider such placement for all but the most serious delinquents. This standard embraces three basic types of nonsecure residences: foster homes, group homes and halfway houses, and camps, ranches and schools. Foster home placement is specified as a dispositional alternative for juveniles adjudicated delinquent in all 50 States and the District of Columbia.

Of the nonsecure residences, foster homes are preferred because they offer the juvenile a family living experience. The youth is placed in the home of a family whose services are purchased by the State. The juvenile lives in that home as a temporary family member. Foster family placements do not usually include any organized program. The juvenile is free to participate in work or school while assisting with the chores of the home along with the other family members.

The group home differs from the foster home in that it usually houses several unrelated youths who are placed in the home for care and control. Group homes are designed to offer the juvenile a group living experience in contrast to the family living experience of a foster home. Group homes frequently run their own programs and are often geared toward a specific treatment philosophy.

Another name frequently used to describe a small community-based residential facility for juveniles is halfway house, although halfway houses were originally created to serve as a bridge between institutional confinement and full reintegration into the community.

Camps, ranches, and schools are usually characterized by more emphasis on security than are foster and group homes. However, even their security is minimal. These facilities are seldom fenced or walled. The only incentive for the juvenile to stay is the knowledge that subsequent court action will probably result in a more coercive disposition. Camps, ranches, and schools are generally centered around some academic, vocational, and/or therapeutic treatment modality. They have more organization and structure than do those alternatives previously discussed.

A juvenile may be sentenced to a period of confinement in a secure facility. Such disposition, however, should be a last resort, reserved for only the most serious or repetitive delinquents. Such placement should be justified by the seriousness of the delinquent act, the age and prior record of the juvenile, and a record that affirmatively shows that the juvenile's needs cannot be met by placement in a particular nonsecure residence or program.

This standard recognizes that for certain juveniles—those who have committed the most serious delinquent acts or are chronic delinquents—some sort of institutionalization may be necessary. But acknowledgment of the possible need for secure placements does not mean condoning the use of traditional juvenile institutions. Many of the problems associated with training schools could be avoided or ameliorated. They could be made coeducational, located near population centers as close as possible to the juvenile's home, and limited in population. This standard was developed with the understanding that secure institutions would be small, be well staffed, and provide all the services necessary for normal growth and development.

References

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8. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. Ann Arbor, Mich.: National Assessment of Juvenile Corrections, 1974.

9. *Model Penal Code*, sec. 302.1(1) and 302.2 (2). 1962.

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11. *People* v. *Becker*, 349 Mich. 476, 84 N.W. 2d 833 (1957).

12. *Stanley* v. *Illinois*, 405 U.S. 645 (1972).

13. Von Hirsh, Andrew. "Doing Justice: *The Choice of Punishments*," (Report of the Committee for the Study of Incarceration). New York: Hill and Wang, 1976.

14. *Wisconsin* v. *Yoder*, 406 U.S. 205 (1972).

Related Standards

The following standards may be applicable in implementing Standard 14.12:

14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.16 Limitations on Dispositions—General
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
24.1 Development of a Statewide System
24.2 Secure Residential Facilities
24.4 Nonsecure Residential Facilities

Standard 14.13

Classes of Delinquent Acts for Dispositional Purposes

All conduct included within the delinquency jurisdiction of the family court should be classified for the purpose of disposition into categories which reflect substantial differences in the seriousness of offenses. Such categories should be few in number. The maximum term which may be imposed for conduct falling within each category should be specified.

Acts within the juvenile delinquency jurisdiction of the family court should be classified as Class I through Class IV delinquent acts.

1. Class I Delinquent Acts—Delinquent acts that would be misdemeanors if committed by an adult;

2. Class II Delinquent Acts—Delinquent acts that would be property felonies if committed by an adult;

3. Class III Delinquent Acts—Delinquent acts against persons that would be crimes if committed by an adult or a Class II Delinquent Act with a prior adjudication of a Class II Delinquent Act; and

4. Class IV Delinquent Acts—Delinquent acts that if committed by an adult would under criminal statute authorize death or imprisonment for life or for a term in excess of 20 years.

Commentary

All jurisdictions incorporate in some form and with various exceptions the criminal law applicable to adults as the dominant source of substantive rules governing the behavior of juveniles. The President's Crime Commission report recognized the need for using some standards from criminal codes, and, although it did not specifically recommend what sorts of adult crimes should be incorporated, it recommended that "the range of conduct for which court intervention is authorized should be narrowed, with greater emphasis upon consensual and informal means of meeting the problems of difficult children."

This standard attempts to articulate very definite classifications of delinquent acts ranging from the simplest misdemeanor to the most serious felony. All of these acts would be criminal offenses if committed by adults. Therefore, status-type offenses have been eliminated from the family court's delinquency jurisdiction consistent with the limited-intrusion philosophy espoused by other standards.

These delinquent act categories are illustrative only and each State would be required to develop a juvenile code using appropriate categories from its criminal code. The important principle set forth is the limited number of categories of delinquent acts and their durational limits. The national average length of stay in a juvenile correctional institution is 8.7 months. This standard is developed around that national average.

The next standard establishes disposition duration limits for the categories. It should also be recognized that most States have repetitive-offender classifications in their penal codes that will bring the three- and four-time loser into a punishment category that requires life imprisonment. Using such adult categories as a baseline would allow for juveniles found guilty of numerous serious felonies to be included in Class IV delinquent acts.

References

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5. U.S. Department of Health, Education, and Welfare. *Statistics on Public Institutions for Delinquent Children*. 1970.

Related Standards

The following standards may be applicable in implementing Standard 14.13:

9.1 Definition of Delinquency
14.1 Purpose of Dispositions
14.3 Requirements for Postadjudicative Juvenile Delinquency Dispositions
14.4 Selection of Least Restrictive Alternative
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.14 Limitations on Type and Duration of Dispositions

Standard 14.14

Limitations on Type and Duration of Dispositions

The family court should not impose dispositions more severe than the following:

1. For a Class I Delinquent Act: Nominal, conditional, and/or custodial placement for a period up to 8 months. If, at the completion of the 8 months' disposition, the correctional agency responsible for the case and supervision of the juvenile can with clear and convincing evidence demonstrate to the family court that additional community supervision is required for the protection of the public, the court may authorize an extension of jurisdiction not to exceed 4 months. In no event shall the total jurisdiction exceed 12 months. Under no circumstances can this extension be used for a further custodial sanction.

2. For a Class II Delinquent Act: Nominal, conditional, and/or custodial placement for a period up to 24 months. If, at the completion of the 24-month disposition, the correctional agency responsible for the case and supervision of the juvenile can with clear and convincing evidence demonstrate to the family court that additional community supervision is required for the protection of the public, the court may authorize an extension of jurisdiction not to exceed 6 months. In no event shall the total jurisdiction exceed 30 months. Under no circumstances can this extension be used for a further custodial sanction.

3. For a Class III Delinquent Act: Nominal, conditional, and/or custodial placement for a period up to 36 months. If, at the completion of the 36-month disposition, the correctional agency responsible for the case and supervision of the juvenile can with clear and convincing evidence demonstrate to the family court that additional community supervision is required for the protection of the public, the court may authorize an extension of jurisdiction not to exceed 12 months. In no event shall the total jurisdiction exceed 48 months or the juvenile's 21st birthday, whichever occurs first. Under no circumstances can this extension be used for a further custodial sanction.

4. For a Class IV Delinquent Act: Nominal, conditional, and/or custodial placement for a period not to exceed beyond the juvenile's 21st birthday. There can be no extension of a Class IV delinquent act beyond the 21st birthday.

Commentary

This standard utilizes the vocabulary established in previous standards to recommend determinate maximums on the type and duration of juvenile court sanctions. It sets an upper limit of 36 months or until the juvenile's 21st birthday for custodial commitment and restricts noncustodial extension of such commitment to 12 months.

Whether the particular maximums proposed adequately accommodate the conflicting demands of justice (proportionality and determinacy), services (flexibility and individualization), and social defense (authority and security) is debatable. Yet it is a fundamental assumption of these standards that some such limits should be prescribed.

The limits proposed by this standard are derived from (1) the kind and duration of sanctions actually imposed in delinquent cases, (2) regard for the development of the juvenile delinquent, (3) the demonstrated adverse effects of long-term confinement or institutionalization, and (4) skepticism regarding both the accuracy of predictions of delinquent behavior and the long-term ability of custodial treatment to prevent such behavior.

When the juvenile has committed a delinquent act that would be a misdemeanor, the recommended custodial placement cannot exceed 8 months. However, the juvenile court's jurisdiction can be extended an additional 4 months for the purposes of community supervision.

When the juvenile has committed a delinquent act that would be a property crime, the recommended custodial placement cannot exceed 24 months, however, the juvenile court's jurisdiction can be extended an additional 6 months for the purposes of community supervision.

When the juvenile has committed a delinquent act that would be a crime against a person or has committed a delinquent act that would be a property crime and also has a prior adjudication for a delinquent act that would be a property crime, the recommended custodial placement cannot exceed 36 months. However, the juvenile court's jurisdiction can be extended an additional 12 months for the purposes of community supervision.

When the juvenile has committed a delinquent act that if committed by an adult would, under the criminal statute, authorize death or imprisonment for life or for a term in excess of 20 years, the recommended custodial placement cannot extend beyond the juvenile's 21st birthday. Under this classification there can be no extension of the juvenile court's jurisdiction beyond the juvenile's 21st birthday.

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Related Standards

The following standards may be applicable in implementing Standard 14.14:

14.4 Selection of Least Restrictive Alternative
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.10 Nominal Disposition
14.11 Conditional Disposition
14.12 Custodial Disposition
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.15 Criteria for Dispositional Decision
14.17 Multiple Delinquent Acts
14.21 Modification of Dispositional Orders

Standard 14.15

Criteria for Dispositional Decision

In determining the type of disposition to be imposed and its duration within the statutorily prescribed maximum, the family court should base its decision on the following:

1. **Category of delinquent act committed;**
2. **Age and culpability of the juvenile;**
3. **Prior record;**
4. **Least restrictive category that is appropriate to the delinquent act; and**
5. **Needs, interests, and motivations of the juvenile.**

Commentary

This standard recommends that the juvenile court's dispositional authority in delinquency cases be rigorously limited in type and duration to the above criteria. The category of delinquent act committed can be ascertained by referring to Standard 14.13. The age and culpability of the juvenile may be matters in mitigation (if the juvenile is very young or the delinquent act occurred due to negligence) or matters in aggravation (if the juvenile is almost at the age of majority or the delinquent act were willful and malicious). Whether the juvenile's role was passive or active will be considered along with any prior record the juvenile might have acquired.

Once all these factors have been considered, the court should still apply the disposition that is least restrictive yet appropriate to the delinquent act. Applying this standard will help to insure that dispositional decisions are uniform, consistent, and based on the best available objective data.

Once the category of the dispositional authority has been determined, the choice of a particular program, activity, or facility within the category should consider the needs, interests, and motivations of the juvenile. The court and the correctional agency also should consider:

1. Any medical problems—including but not limited to physically handicapping conditions, mental disturbances, and drug addiction—that require special consideration or ready access to physicians or hospitals;
2. The proximity of the program to the youth's guardian, counsel, and significant others;
3. The language spoken by the youth, so that counselors and teachers who speak the same language will be available;
4. The ability or capacity of the youth to participate in and benefit from programs; and
5. The immediate availability of the particular placements or programs.

This part of the standard focuses the dispositional selection on the needs and desires of the juvenile. Consideration of these criteria will help insure a realistic disposition—one having the potential to assist the young person. Requiring the court to weigh these factors will provide an opportunity for differential assignment within the limits of legislatively determined maximum dispositions.

It is not envisioned that the court will determine the identity of the actual programs or facilities to be used but that the court will determine the particular type of program. The correctional agency will retain the ability to transfer juveniles between programs of a similar type without court approval.

This standard gives flexibility to the family court and encourages maximum participation by the juvenile, the family, and the attorney in fashioning a disposition.

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Related Standards

The following standards may be applicable in implementing Standard 14.15:

14.1 Purpose of Dispositions
14.4 Selection of Least Restrictive Alternative
14.5 Dispositional Information
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.17 Multiple Delinquent Acts

Standard 14.16

Limitations on Dispositions—General

In making dispositions of juvenile delinquency petitions, the court should be prohibited from:

1. Making a coercive disposition prior to an adjudicative finding of delinquency;

2. Making an order of disposition, other than outright release, without an additional finding that the youth is in need of supervision, care, or training or that the disposition is for the purpose of deterrence or for victim restitution;

3. Committing or authorizing a transfer to any penal institution or other facility used for pretrial detention of adults charged with crimes or for the execution of sentences of persons convicted of crimes;

4. Committing or authorizing the transfer of any juvenile to a facility for the mentally retarded or mentally ill for the purpose of long-time care or treatment;

5. Imposing any unreasonable condition which would expose the juvenile to public ridicule;

6. Imposing any unreasonable conditions which would be beyond the juvenile's physical or financial capacity to discharge;

7. Imposing any unreasonable condition which would interfere with the juvenile's schooling or employment obligation when the disposition is a conditional one;

8. Imposing any condition upon a juvenile which would be a form of exploitation and

9. Imposing any fine or order of restitution upon the parents of a juvenile before the court on the basis of the juvenile's behavior.

Commentary

This standard requires two findings before making an order of disposition. The first requires that the juvenile be adjudicated delinquent. In the case of the juvenile who has been adjudicated delinquent, an additional finding must be made that the juvenile is in need of supervision, care or treatment. Sometimes a juvenile will have committed an act that constitutes a delinquent act, but is incidental in nature, and all the information about the circumstances of the delinquent act and the juvenile's past history will indicate no need for further action. The facts in support of this second finding should provide reasons for the court's dispositional decision..

Direct commitment or transfer of a child to a penal institution is generally prohibited now on the basis that it permits a delinquent act to be enlarged into a crime, resulting in punishment for a crime despite the fact that the juvenile was not accorded all the safeguards prescribed for a criminal prosecution. Additionally, it has been universally accepted that juveniles should not be incarcerated with adult criminals because such commingling retards the rehabilitative process.

When a juvenile delinquent is found to be mentally ill or mentally retarded, action should be initiated for civil commitment to the appropriate facility under procedures established for that purpose.

In most jurisdictions, the judge has almost complete discretion as to what limitations or conditions to attach to a disposition. As a result, in some cases, juveniles have been subjected to public humiliation and even abridgment of constitutional rights. Although it is recognized that some degree of discretion must be retained by the juvenile court judge, it is recommended that some guidelines be established for selecting among dispositional alternatives.

The disposition selected by the judge must be realistic. To impose a condition which is beyond a juvenile's physical or financial capability is not only impractical, but tends to be nonrehabilitative. Setting standards which a juvenile cannot achieve will cause him or her to become frustrated and disenchanted with the court's professed "best interests" philosophy.

The juvenile court should refrain from imposing any condition that would interefere with the juvenile's schooling or employment obligations. In the adult courts, offenders are allowed bail so that they can continue to honor their obligations. Since bail is not available for juveniles, juvenile court judges must be sensitive to providing them with an equal opportunity to continue to meet their schooling and employment obligations.

Under no circumstances should a dispositional order tend to exploit the juvenile. Such orders are inimical to the basic juvenile justice philosophy. From adoption of the first Juvenile Court Act in 1899, the court has assumed the role of protector of the young. There is no provision in this role for exploitation of the juvenile.

The court should not impose any fine or order of restitution upon the parents of a juvenile before the court. The only exception to this would be the case of a parent who is found to be in contempt of a lawful order of the court. Since the court often must rely upon the cooperation of the parents to insure that a juvenile complies with its orders, parents who thwart such compliance must themselves be answerable to the juvenile court.

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3. *California Welfare and Institutions Code*, sec. 508.
4. *California Welfare and Institutions Code*, secs. 734, 1731.5.
5. *In re Aline D.*, 14 C. 3d 557.
6. *Mathews* v. *Hardy*, 420 F. 2d 607 (D.C. Cir. 1969).
7. Miller and Kenney. "Adolescent Delinquency and the Myth of Hospital Treatment," *Crime and Delinquency*, 1966, vol. 38.

Related Standards

The following standards may be applicable in implementing Standard 14.16:

14.1 Purpose of Dispositions
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.10 Nominal Disposition
14.11 Conditional Disposition
14.12 Custodial Disposition
20.1 Grievance Procedures—Hearings and Representation
20.2 Grievance Procedures—Appeal and Review

Standard 14.17

Multiple Delinquent Acts

When a juvenile is found to have committed two or more delinquent acts during the same transaction or episode or during separate transactions or episodes, the family court should not impose a disposition more severe than the maximum disposition authorized by Standard 14.14 for the most serious delinquent act.

Commentary

Because of the proliferation of criminal statutes and ordinances at all governmental levels, a single course of conduct may often yield plural criminal charges based on the multiplicity of acts, victims or laws. This standard is intended to deal with the effect of such multiple charges on the sanction limitations imposed by the previous standards. When charges arise out of a single transaction or separate transactions this standard suggests that the disposition be limited to the maximum disposition authorized by Standard 14.14 for the most serious delinquent act. Ultimately, however, this will have to be a matter of discretion for the court hearing the particular case.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Juvenile Delinquency Dispositions* (John Junker, reporter). 1976.
2. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Probation.* New York: Institute of Judicial Administration, 1970.

Related Standards

The following standards may be applicable in implementing Standard 14.17:

14.9	Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13	Classes of Delinquent Acts for Dispositional Purposes
14.14	Limitations on Type and Duration of Dispositions
14.16	Limitations on Dispositions—General

Standard 14.18

Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles

If at any time after the filing of a delinquency petition it is brought to the attention of the court, juvenile's counsel, the family court prosecutor, or the parents, guardian, or other legal custodian of the juvenile that there is evidence that the juvenile may be mentally ill or mentally retarded, upon motion by the juvenile's counsel or the family court prosecutor, the court should hold a hearing (see Standard 14.7) to determine the validity of such allegations.

If at such hearing there is evidence indicating that the juvenile may be suffering from mental illness or mental retardation, the court should direct an appropriate individual, agency, or institution to study the juvenile's condition and submit, within a certain time, a comprehensive report as to such condifion and an opinion as to whether the juvenile appears to be committable.

If at such hearing the court finds that such study cannot be made on an outpatient basis, the court should order the temporary placement of the juvenile in a diagnostic facility for not more than 30 days, with the facility to submit a comprehensive report within that time as to the juvenile's condition and an opinion as to whether the juvenile is committable.

If upon receipt of such report it appears probable that the juvenile is so mentally retarded or mentally ill as to be committable under the laws of that State, the court should order the initiation of proceedings under the laws relating to the commitment of mentally retarded or mentally ill juveniles.

If the juvenile is ultimately committed as a mentally retarded or mentally ill juvenile, the case should be kept open in the family court, and, when the juvenile is discharged, the case should be referred to court intake for review and appropriate action.

Commentary

This standard attempts to identify the procedures that should be used when there is evidence that a juvenile before the court may be mentally ill or mentally retarded. Care must be exercised to insure that only mentally ill or mentally retarded juveniles are transferred to mental health facilities after the court has held a hearing on the issue. This will not only help to eliminate the admission of relatively healthy patients to mental health facilities but also will guarantee a ready resource for those juveniles who, because of their mental illness or retardation, cannot benefit from a custodial disposition in a correctional setting.

If the court determines that a juvenile referred to it may be suffering from mental illness or mental retardation, then it should order that the juvenile's condition be studied. The person or agency directed to conduct this study should prepare a comprehensive report of the findings and should make a determination whether the juvenile is committable.

The court should explore all possibilities of conducting this study on an outpatient basis, obviating the need for the continued detention of the juvenile. If the court determines that the study cannot be conducted while the juvenile is in an outpatient status, then the court should order the juvenile temporarily placed in a diagnostic facility for not more than 30 days. The court should then require that the facility submit the study within this time frame and determine whether the juvenile is committable.

Once the family court receives the comprehensive study on the juvenile and it appears probable that the juvenile is so mentally retarded or mentally ill as to be committable under the laws of the State, the court should order the initiation of proceedings under the laws relating to the commitment of mentally retarded or mentally ill juveniles.

Should the juvenile ultimately be committed as mentally retarded or mentaly ill, the family court should continue to maintain the case in an open status. When the juvenile is discharged from the mental health facility, the case should be referred to court intake for review and appropriate action.

The procedures encompassed by this standard apply whether the juvenile is identified as mentally retarded or mentally ill before or after the adjudication hearing. This provision is made because the condition may not become apparent until after the predisposition study has been conducted.

References

1. American Law Institute. *Model Penal Code,* sec. 401(2). 1962.

2. *Baxstrom* v. *Herold,* 383 U.S. 107 (1967).

3. *Mathews* v. *Hardy,* 420 F. 2d 607 (D.C. Cir. 1969).

4. Miller and Kenney. "Adolescent Delinquency and the Myth of Hospital Treatment," *Crime and Delinquency,* 1966, vol. 38.

5. Office of Children's Services. *Despite Situation —Disparate Service,* p. 28. 1973.

6. National Commission on Reform of Federal Criminal Laws. *The Study Draft of a New Federal Criminal Code,* sec. 503. 1970.

Related Standards

The following standards may be applicable in implementing Standard 14.18:

14.5 Dispositional Information
14.6 Sharing and Disclosing of Information
14.7 Formal Dispositional Hearing
16.1 Juvenile's Right to Counsel
16.3 The Role of Counsel for the Incompetent Client
16.4 The Role of Counsel Appointed Guardian Ad Litem
19.3 Provision of Services

Standard 14.19

Provision of Dispositional Services

In both conditional and custodial dispositions, the administration of correctional programs and assignment and reassignment of juveniles to activities, programs, and services within the category and duration ordered by the court should be the responsibility of the State's correctional agency.

1. Purchase of Services. Services may be provided directly to the State correctional agency or obtained by that agency through purchase of services from other public or private agencies. Whichever method is employed, the correctional agency should set standards governing the provision of services and establish monitoring procedures to insure compliance with such standards.

2. Prohibition Against Increased Dispositions. Neither the severity nor the duration of a disposition should be increased in order to insure access to services.

3. Obligation of Correctional Agency and Family Court. If access to all required services is not being provided to a juvenile under the supervision of the correctional agency, the agency has the obligation to so inform the family court. In addition, the juvenile, his or her parents, or any other interested party may inform the court of the failure to provide the services. The court may act on its own initiative.

If the court determines that access to all required services in fact is not being provided, it should do the following:

a. The family court may order the correctional agency or other public agency to make the required services available.

b. Unless the court can insure that the required services are provided, it should reduce the nature of the juvenile's disposition to a less severe disposition that will insure the juvenile access to the required services or discharge the juvenile.

Commentary

Every effort must be made to insure that no child who has become subject to the jurisdiction of the juvenile court is deprived of needed services. Most juveniles in the community at large have access to a wide range of services, both publicly and privately funded. Included are such services as medical care, dental care, educational services, legal services, vocational training programs, recreational services, religious services, and psychological and psychiatric services. Requiring that such services be made available to juveniles sentenced under the juvenile correctional system is a necessary means of implementing the purposes of that system.

Correctional agencies traditionally have attempted to provide all services themselves, either because they lacked resources to purchase services from other sources or because services provided others were not readily available to correctional clients. Purchasing services from outside sources is recommended if it avoids duplication or if it provides access to programs otherwise unavailable. Purchase of service allows the correctional agency more flexibility in choosing existing services rather than investing capital to create its own programs. It has the added benefit of promoting community involvement with offenders.

The Group for the Advancement of Corrections has written that the quality of services provided by correctional agencies is often inferior to the quality of ordinary community services. By purchasing services, the correctional agency can maintain flexibility and can specify conditions and quality of services, thereby providing the best services or skills available.

Correctional agencies may not abdicate responsibility for the quality of services provided to juveniles simply because they have contracted with private agencies to furnish custody and care. The responsibility to set standards and to measure performance remains with the correctional agency regardless of the actual program in which the juvenile is enrolled. The correctional agency must insure that the services are actually received by the juveniles under its jurisdiction.

Increasing the duration or severity of a sentence beyond that called for by the seriousness of the offense is no more justified than a similar intervention to provide services for a juvenile not adjudicated delinquent. There is evidence that judges' dispositional decisions are dictated to a great extent by the resources available. A recent study by the Board of Corrections in California indicated that when a nonincarcerative disposition was thought most appropriate but the resources and services needed to carry it out were unavailable, judges tended to sentence the juvenile to a State institution.

The requirement that adjudicated youths be provided services by correctional agencies would be incomplete without an obligation to insure access to services provided by other public agencies or by private organizations. Delinquent youths often are subject to discriminatory treatment by noncorrectional agencies and are prevented from participating in service programs available to other youths. Whenever a juvenile adjudicated delinquent is denied a service to which he or she is entitled, the correctional agency charged with supervision is obligated to so inform the family court.

In order to prevent escalation of coercive intervention by the State, this standard provides that, if access to all required services is not being provided, the family court can either order that the service be made available, reduce the nature of the juvenile's disposition, or discharge the juvenile.

Courts traditionally have recognized the principle that confinement under unconstitutional or statutorily prohibited conditions amounts to unlawful imprisonment and that it is the State's duty to remedy the unconstitutionalities. The absence of access to required services has been held to be one such illegal condition.

References

1. Academy for Contemporary Problems, the Group for the Advancement of Corrections. *Toward a New Corrections Policy: Two Declarations of Principles*, p. 11, 1974.

2. Bakal, Yitzhak. "The Massachusetts Experience," *Delinquency Prevention Report*. Apr. 1973.

3. Board of Corrections, Youth and Adult Corrections Agency, State of California. *Probation Study, Final Report*, pp. 19, 22, 36. 1965.

4. Comment. "Enforcement of Judicial Financing Orders: Constitutional Rights in Search of a Remedy," *Georgia Law Journal*, 1970, vol. 59.

5. Fogel, David. *Corrections and Social Work in the Year 2000—Some Directions*, p. 6. 1973.

6. Foster, Robert. "Youth Service Systems: New Criteria," in Bakal, *Closing Correctional Institutions*, p. 34, 1973.

7. *Holt* v. *Sarver*, 309 F. Supp. 362, 385 (E.D. Ark. 1969).

8. *In re Savoy*, Nos. 70–4807, 70–4714 (D.C. Juv. Ct., Oct. 13, 1970).

9. *Model Act for the Protection of Prisoners' Rights*, sec. 6(d) (1972).

10. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

11. *Nelson* v. *Heyne*, 491 F. 2d 352 (7th Cir. 1974).

12. Note. "Courts, Corrections, and the Eighth Amendment: Encouraging Prison Reform by Releasing Inmates," *Southern California Law Review*, 1971, vol. 44.

13. "Rehabilitation in Corrections: A Reassessment," *Federal Probation*, 1974, vol. 38.

14. Singer, Linda. "Incentives and the Use of Prison Labor," *Crime and Delinquency*, 1973, vol. 19.

Related Standards

The following standards may be applicable in implementing Standard 14.19:

14.1 Purpose of Dispositions

14.20 Right to Services
19.1 Purposes of Juvenile Corrections
19.2 Creation of a State Agency for Juvenile Intake and Corrections
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
19.5 Specific Responsibilities
19.6 Limitations on Authority
19.7 Right to Refuse Services

Standard 14.20

Right to Services

All publicly funded services to which nonadjudicated juveniles have access should be made available to adjudicated delinquents. In addition, juveniles adjudicated delinquent should have access to all services necessary for their normal growth and development.

Commentary

When juveniles violate the law, sanctions appropriate to the violations may be imposed. This sentencing power, however, should confer no authority on the State to create additional deprivations above and beyond the necessary, unavoidable concomitants of the particular disposition. To deprive a child of needed services merely because he or she has come under the jurisdiction of the juvenile justice system is inimical to the purposes of that system.

Access to services is required to promote the normalization of institutions or homes to which juveniles are sentenced, to reduce the isolation of adjudicated delinquents from the rest of the community, and to insure these juveniles equal protection of the law. Institutions or homes to which adjudicated juveniles are committed should be no less like the community than is necessary. Facilities should approximate the home life available to nonadjudicated children as closely as possible. If certain services are available in the community for nonadjudicated juveniles, then such services must be available for adjudicated juveniles.

To the extent that the juvenile justice system usurps functions ordinarily performed by the child's parents when it removes the child from the home, basic concepts of fairness and humanity suggest that the system be required to supply services that might be supplied by the parents. It has even been proposed that this has a constitutional basis in that the ninth amendment forbids the State to deprive the delinquent of family life if it then fails to provide the delinquent with the same adequate care, custody, and protection he or she had a right to demand from parents.

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3. *Creek* v. *Stone*, 379 F. 2d 106 (D.C. Cir. 1967).

4. *Inmates of Boys Training School* v. *Affleck,* 346 F. Supp. 1355, 1366 (1972).

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8. National Council on Crime and Delinquency. *Standard Juvenile Court Act.* New Jersey: National Council on Crime and Delinquency, 1959.

9. *Nelson* v. *Heyne,* 491 F. 2d 352 (7th Cir. 1974).

10. *Newman* v. *Alabama,* 349 F. Supp. 278, 285–6 (M.D. Ala. 1972).

11. Pyfer, Jr. "A Juvenile's Right to Receive Treatment," *Family Law Quarterly,* 1972, vol. 6.

12. Renn. "The Right to Treatment and the Juvenile," *Crime and Delinquency,* 1973, vol. 19.

13. *Rouse* v. *Cameron,* 373 F. 2d 451 (D.C. Cir. 1966).

14. Sarri, Vinter, and Kish. "Juvenile Justice, Failure of a Nation," paper presented at the annual meeting of the Directors of Criminal Justice Research Center, Harvard University Law School, Cambridge, Mass., May 1974, p. 28.

15. "The Courts, the Constitution and Juvenile Justice Reform," 52 *Boston University Law Review,* 1972, vol. 5.

16. *Standard Minimum Rules for the Treatment of Prisoners,* Part II, Fourth United Nations Congress on Prevention of Crime and Treatment of Offenders. 1955.

17. *Declaration of Principles* of the American Correctional Association as adopted by the American Congress of Correction, Cincinnati, Ohio, 1970.

18. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 14.20:

14.1 Purpose of Dispositions
14.19 Provision of Dispositional Services
19.1 Purposes of Juvenile Corrections
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
19.7 Right to Refuse Services
24.5 Educational and Vocational Training
24.6 Educational Assessment and Diagnosis
24.7 Educational Programs
24.8 Prevocational and Vocational Programs
24.10 Medical/Dental and Mental Health Services
24.11 Rehabilitative Services
24.12 Recreation and Leisure Time Activities
24.14 Work Assignments and Work Release Programs
24.15 Health, Safety, and Sanitation

Standard 14.21

Modification of Dispositional Orders

Dispositional orders may be modified as follows:

1. Reduction Because Disposition Is Inequitable. A juvenile, his or her parents, the correctional agency with responsibility for the juvenile, or the family court on its own motion may petition the family court at any time during the course of the disposition to reduce the nature or the duration of the disposition on the basis that:

a. It exceeds the statutory maximum;

b. It was imposed in an illegal manner;

c. It is inappropriate in light of newly discovered evidence;

d. It is unduly severe with reference to the dispositions given by the same or other courts to juveniles convicted of similar offenses;

e. It appears at the time of the application that by doing so it can prevent an unduly harsh or inequitable result;

f. Changes have occurred in the juvenile's home situation; and

g. The objective or objectives of the original order have been achieved.

2. Reduction Because Services Not Provided. The family court should reduce a disposition or discharge the juvenile when it appears that access to required services is not being provided.

3. Reduction for Good Behavior. The correctional agency with responsibility for a juvenile may reduce the duration of the juvenile's disposition by an amount not to exceed 10 percent of the original disposition if the juvenile has refrained from major infraction of the dispositional order or of the reasonable regulation governing any facility or program to which the juvenile is assigned.

4. Reduction Based on Delegated Discretion. At the time of the disposition order, the court may authorize the correctional agency responsible for carrying out the order to modify, at the agency's discretion, the disposition to a less severe sanction or to a shorter duration. Unless such an authorization is given, all changes in the court's dispositional order must be returned to the court for its action. Under no circumstances can the correctional agency increase the severity or duration of the disposition.

Commentary

A primary goal of this standard is to reduce sentencing inequality. As the National Advisory Commission on Criminal Justice Standards and Goals recognized, "An offender who believes he has been sentenced unfairly in relation to other offenders will not be receptive to reformative efforts on his behalf."

This standard provides a mechanism by which the juvenile or his or her parents may petition for redress of what they perceive to be an unduly severe sentence. Such a provision requires the continued vigilance of the attorney who initially represented the juvenile at the dispositional hearing. Additionally, the correctional agency responsible for the juvenile is authorized to petition the court on behalf of the juvenile. Often the correctional agency is in the best position to discover sentencing disparities, since in its charge may be youths from different geographic areas and youths sentenced by various judges. This standard attempts to make use of the advantageous position of the correctional agency in helping to remedy dispositional disparities.

The considerations relevant to the court in deciding whether to reduce a disposition are the same as those relevant to the initial sentencing decision (Standard 14.15) with the addition of any information about dispositions of other courts in similar cases or about the behavior and circumstances of the juvenile after the disposition was imposed. Reduction of a disposition under this standard should not be denied because of the juvenile's attitude or the exercise of the right to refuse services or to participate in programs.

Decisions on petitions for disposition reduction under this standard should be made only after hearings that conform to the relevant requirements of the standards on dispositional procedures. These hearings should be held within relatively brief time periods, not to exceed 30 days from the filing of the petition.

The only modification of the disposition envisioned by the standard is reduction. In order not to deter the exercise of the right to challenge the original disposition, increases should be precluded unless the juvenile has violated a term of the dispositional order.

Incarcerated adult offenders often are awarded "good-time credits" if they refrain from major disciplinary infractions. These credits reduce the duration of the prisoner's sentence. Similar provisions enable juvenile authorities to discharge a juvenile before the expiration of statutorily or judicially determined jurisdiction. The awarding of good time lets correctional administrators reward good behavior and deter infractions of dispositional orders or regulations. While there is nothing magical about a 10 percent reduction, the limitation of good-time credits to a small proportion of the disposition would mean that judges need not create an artificial sentencing structure. The limitation restricts the discretion of correctional administrators while giving them some ability to reward good behavior. The limitation also reduces the uncertainty of the sentence for the juvenile offenders.

The good-time credits should be granted for compliance with the dispositional order and conformity to reasonable rules. Achievement of treatment goals and performance in special programs should be irrelevant. Strict regulation of administratively granted remissions is advocated.

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9. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

10. Committee for the Study of Incarceration. *Preliminary Draft*, ch. 12, p. 10. 1974.

11. Ky. Rev. Stat. 208.200(1)(c) (1972).

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13. National Council on Crime and Delinquency. *Model Sentencing Act*. New Jersey: National Council on Crime and Delinquency, 1972.

Related Standards

The following standards may be applicable in implementing Standard 14.21:

14.4 Selection of Least Restrictive Alternative

14.20	Right to Services
15.19	Dispositions—Requirement of Taking an Active Role
16.1	Juvenile's Right to Counsel
19.5	Specific Responsibilities
20.1	Grievance Procedures—Hearings and Representation
20.2	Grievance Procedures—Appeal and Review
23.3	Formulation of Services Plan
23.8	Investigation of New Law Violations

Standard 14.22

Enforcement of Dispositional Order When Juvenile Fails to Comply

The correctional agency with responsibility for a juvenile may petition the family court if it appears that the juvenile has willfully failed to comply with any part of the dispositional order. Compliance is defined in terms of attendance at and participation in the specified program and not in terms of performance.

If after a hearing it is determined that the juvenile, in fact, has not complied with the order and that there is no excuse for the noncompliance, the court may do one of the following:

1. Warning and Order to Comply. The court may warn the juvenile of the consequences of failure to comply and order him or her to make up any missed time (in the case of supervisory, remedial, or custodial dispositions) or missed payment (in the case of restitution or fines).

2. Modification of Conditions and/or Imposition of Additional Conditions. If it appears that a warning will be insufficient to induce compliance, the court may modify existing conditions or impose additional conditions calculated to induce compliance, provided the conditions do not exceed the maximum sanctions permissible for the offense. The duration of the disposition should remain the same, with the addition of any missed time or payments ordered to be made up.

3. Imposition of a More Severe Disposition. If it appears that there are no permissible conditions reasonably calculated to induce compliance, the court may sentence the juvenile to the next most severe category of disposition. The duration of the disposition should remain the same, except that the court may add some or all of the missed time to the remainder of the disposition.

4. Commission of a New Offense. When conduct is alleged that constitutes a willful failure to comply with the dispositional order and also constitutes a separate delinquent act, prosecution for the new delinquent act is preferable to modification of the original order. The preference for separate prosecution in no way precludes the imposition of concurrent dispositions.

Commentary

A juvenile's willful failure to comply with a dispositional order may be dealt with by the dispositional court in various ways. Enforcement should be ordered only after a determination that the noncompliance was intentional and unexcused, at a hearing designed to afford the juvenile all the procedural protections to which entitled.

It is contemplated that, in accordance with the principle of least restrictive alternative, lesser enforcement actions will be considered (and generally tried) before more severe actions are employed. As in the original sentencing process, the presumption is in favor of using the least intrusive measure that will be sufficient to achieve compliance.

A warning and order to comply may be sufficient. The National Advisory Commission on Criminal Justice Standards and Goals suggested the use of such informal alternatives. The ABA similarly authorizes the use of alternatives to probation revocation that would include a conference with the probationer to reemphasize the necessity of compliance and a warning against further violations. The sentencing court also may modify existing conditions of the original dispositional order or impose additional conditions calculated to induce compliance. The modification or addition must be related to the noncompliance and be designed to induce compliance with the original order.

When it appears that neither a warning nor modification of existing conditions would be sufficient to achieve compliance, the juvenile may be referred to the next most severe dispositional alternative, provided that the remaining duration of the disposition is not increased, in order to retain the concept of limited intervention. Thus, willful failure to comply with a conditional order may result in an order mandating custody. The presumption against the use of custodial dispositions again should be reemphasized.

At times, the conduct that amounts to a willful violation of the sentencing order may also constitute a separate offense. In such cases, in order to provide the juvenile the protections of maximum procedural fairness, the ceiling on dispositions, and the greater burden of proof needed to establish a separate offense, a new prosecution is preferable to modification of the original order.

References

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2. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Probation.* New York: Institute of Judicial Administration, 1970.

Related Standards

The following standards may be applicable in implementing Standard 14.22:

14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.21 Modification of Dispositional Orders
15.19 Dispositions—Requirement of Taking an Active Role
16.1 Juvenile's Right to Counsel
19.7 Right to Refuse Services
23.7 Noncompliance With Court Orders

Standard 14.23

Families With Service Needs—Dispositional Alternatives

In the Families With Service Needs proceedings, family court dispositions may order the provision of services, the cooperation with offered services, the continuation or discontinuation of behaviors by any party, or placement of the child in alternative care. In no event shall the family court disposition confine the child in an institution to which delinquents are committed.

Commentary

The first part of this standard enumerates the various dispositional alternatives available to the family court in Families With Service Needs proceedings. The dispositions are intended to be consistent with the focus of this jurisdictional base of the family court: to determine the source of a particular behavioral problem and provide services designed to solve the problem.

The available dispositions also reflect the broad jurisdictional reach of the family court in Families With Service Needs proceedings. Thus, the family court may order a public agency or institution with the legal responsibility to provide a needed service to provide that service. It may also order the parent, child, or family to cooperate with services offered by agencies outside the public realm, such as treatment offered by a private institution.

When the conduct of a particular party before the court is the source of the problem, the court can order the party to cease that conduct. For example, if a child runs away because the parents conduct themselves in such a way as to make home unbearable, the family court could order the parents to cease or modify their present conduct. At the same time, the court could order the child to stop running away.

When absolutely necessary, the family court can order a juvenile to be placed in alternative care—some type of care outside of the juvenile's own home. Again, the purpose of this disposition is not punishment but the provision of services necessary to solve the particular child's problem. Thus, the last part of this standard sets a limitation on the kind of alternative care allowed for a child under family court jurisdiction in Families With Service Needs proceedings.

There is a great deal of concern over the fact that, in most States, the dispositional alternatives available to the courts for dealing with status offenders are the same as those for dealing with delinquents. Very often, therefore, nondelinquent children such as truants or runaways are committed to institutions where they not only are treated like delinquents but also come into constant contact with juveniles who are serious delinquents.

The President's Commission on Law Enforcement and Administration of Justice, in its *Task Force Report: Juvenile Delinquency and Youth Crime,* stated that a child who has committed no criminal act should be sent to an institution for delinquents "only in the unlikely instance of a showing of special appropriateness or utter absence of alternatives." The National Advisory Commission on Criminal Justice Standards and Goals, in its volume, *Courts,* took the position that "if the court's . . . jurisdiction includes children shown to have engaged in . . . 'conduct illegal only for children,' placement of the child in institutions for delinquent children should not be permitted." In *Juvenile Justice Administration,* the International Association of Chiefs of Police stated, "The mixing together of status offenders and real delinquents in detention centers and reform schools helps to provide learning experience for the nondelinquents on how to become real delinquents."

This report joins these others in condemning the practice of placing nondelinquent children in institutions for delinquent children. This standard forbids the family court to place any child brought within its jurisdiction under a Families With Service Needs proceeding in an institution to which delinquents are committed. Furthermore, confinement in any institution with a security system involving locked doors or fences designed to keep children within that institution is equally inappropriate under this jurisdiction.

These restrictions are intended to cover not just the initial disposition but all dispositional orders stemming from a Families With Service Needs proceeding. Thus, an initial order to a juvenile to cease a certain behavior could not by violation of that order escalate to a commitment to an institution where delinquents are confined or that is locked or fenced.

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7. Rubin, Sol. *Children as Victims of Institutionalization.* Hackensack, N.J.: National Council on Crime and Delinquency, 1974.

Related Standards

The following standards may be applicable in implementing Standard 14.23:

10.3 Scope of Jurisdiction
10.4 Running Away
10.5 Truancy
10.6 Disregard for or Misuse of Parental Authority
10.7 Use of Intoxicating Beverages
10.8 "Delinquent Acts" by Child Younger Than 10
14.24 Responsible Self-Sufficiency
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
19.5 Specific Responsibilities
19.7 Right to Refuse Services

Standard 14.24

Responsible Self-Sufficiency

The family court should have the power to enter an order of responsible self-sufficiency in favor of any juvenile. Before making such an order, the court must determine:

1. That the juvenile wishes to be free from parental control;

2. That he or she understands the consequences of being free from parental control; and

3. That he or she has an acceptable plan for independent living and self-support and the apparent ability and maturity to implement such a plan.

The legal effect of an order of responsible self-sufficiency is the complete emancipation of the minor child.

Commentary

This standard provides a mechanism for severing the legal parent-child relationship with its accompanying rights and duties prior to the age of majority. It recognizes that children mature at different rates and that there may be situations in which a relatively young child will fare better on his or her own than under the control of parents. In some cases, a juvenile who defies his or her parents may be simply responding in a positive way to his or her own natural growth. By implication, therefore, an order of responsible self-sufficiency recognizes that under some circumstances certain behaviors such as running away and disobedience to parents are constructive or creative.

In most instances the order of responsible self-sufficiency will be an alternative to continued family conflict and runaway situations that could result in the child being institutionalized. But it should only be used when all other available resources to achieve family harmony have been tried and have failed.

Although this dispositional alternative most frequently will be used in Families With Service Needs proceedings, it is by no means limited to that jurisdiction. The responsible self-sufficiency order should be available to the family court whenever it is confronted with a problem that would be best solved by releasing a juvenile from the control and supervision of parents.

This standard requires the family court to make three findings before entering the order of responsible self-sufficiency. First, it must determine that the juvenile wishes to be free from parental control. The judge should make sure that the decision to request the order was rationally made by the juvenile and is not just an immature reaction to not being able to do as he pleases.

Second, the court must determine that the juvenile understands the consequences of being free from parental control. This means that the juvenile must be aware that the parents are no longer obligated to supply him or her with the necessities of life, such as shelter, food, and clothing. It also means that the juvenile must understand the rights and duties of an emancipated minor. For example, the juvenile must realize that he or she is no longer required to turn over any wages earned to parents but now must pay for such expenses as medical bills and rent.

Finally, the court must find that the juvenile has an acceptable plan for independent living and self-support and the apparent ability and maturity to implement the plan. The juvenile should have acceptable lodging arranged, gainful employment, and, hopefully, a long-range plan for education, training, or some other form of self-improvement. Being able to present such a plan should be a primary indication of the juvenile's capability to handle freedom from parental control.

The requirements for appropriateness of the responsible self-sufficiency order are intended to be quite stringent. It is expected that relatively few juveniles will have the maturity and resources to meet them. The family court judge will have to exercise the discretion necessary to determine whether the juvenile has actually become, or is able to become, exactly what the title intends to communicate, responsibly self-sufficient.

The legal effect of the responsible self-sufficiency order is the complete emancipation of the minor child from parents. This means that there has been court-ordered attainment of majority by the particular juvenile involved.

Reference

1. Beaser, Herbert Wilton. *The Legal Status of Runaway Children*. Washington, D.C.: Educational Systems Corporation, 1975.

Related Standards

The following standards may be applicable in implementing Standard 14.24:

10.3 Scope of Jurisdiction
10.4 Running Away
10.6 Disregard for or Misuse of Parental Authority

Standard 14.25

Endangered Children—Dispositional Resources

Upon finding a child endangered, a court should have available at least the following dispositional resources:

1. Casework supervision;

2. Day care services;

3. Individual, group or family counseling, therapy, or medical treatment;

4. Homemaker services; and

5. Placement of the child with a relative, in a foster family or group home, or in a residential treatment center.

Commentary

One of the central defects of all current systems of intervention is a lack of adequate services to meet the needs of the child and parents. Faced with inadequate or nonexistent resources, courts are often forced to utilize inappropriate intervention strategies. As a result, intervention is often ineffective and even harmful to the child.

It is a basic judgment of these standards that intervention is not justified unless there are adequate, high-quality resources available to make the intervention beneficial to the child and, to the maximum degree possible, to the parents. It is pure hypocrisy for legislatures to authorize intervention, not provide resources, and still believe children are being protected by endangered child laws.

This standard outlines those dispositional resources that, *at the very minimum,* should be available to the court. The availability of these services is critical to the success of the proposals outlined in this volume.

Casework Supervision. The caseworker should be responsible for seeing that court-ordered services are, in fact, being provided to the parents and the child. At a minimum, the caseworker might just periodically check on the child's well-being. When appropriate, the caseworker may also provide direct counseling.

Casework services can take a variety of forms. But to make these services meaningful, there must be available to the court a sufficient number of trained caseworkers with manageable caseloads so that the workers can provide ongoing services and not just respond to crises.

Day Care Services. There is now evidence that many children who are presently placed in foster care do not have to be totally removed from their homes. Instead, they can be protected, and their parents helped, by placing them in a day care facility with the parent retaining basic custody and control.

Unfortunately, services provided only to neglected children often tend to be of low quality. Therefore, day care services should not be limited to endangered children but should be offered as part of an overall community program for all children.

Counseling, Therapy, and Medical Treatment. A number of studies have demonstrated that, particularly in cases of physical abuse, a coordinated program of psychiatric treatment and social work services can avert the need to remove the child and help the family function adequately without endangering the child. Programs developed in a number of cities can serve as models for the provision of such treatment services. These standards strongly urge adoption of the treatment team approach for dealing with endangered children.

Homemaker Services. Homemakers are persons trained to come into a home to help parents care for their children and to teach parenting skills. It is well documented that providing such services can prevent removal of the child and cost less than foster care. The provision of homemakers may well be the most effective means of intervention in cases arising under Standard 11.11. It is essential that adequate funds be provided for homemakers to achieve the goals established in this volume.

Removal. Removal of the child from the home and placement with a relative, in a foster family or group home, or in a residential treatment center should occur only when less intrusive means of intervention will not suffice (see Standard 14.27). However, in some cases removal will be necessary. Evidence from several States indicates that upon removal children frequently are placed in inadequate institutions or foster homes. Too often we merely substitute neglect by the State for neglect by the parents. Each State should examine what services are needed and develop programs to insure that the quantity and quality of alternative living situations are adequate.

References

1. Bernstein, B. *A Preliminary Report: Foster Care Needs and Alternatives to Placement.* New York: New York Board of Social Welfare, 1975.

2. Bronfenbenner. "Is Early Intervention Effective?" *A Report on Longitudinal Evaluations of Preschool Programs,* vol. 2, Department of Health, Education, and Welfare Monograph No. OHD 74–250. Washington, D.C.: Government Printing Office, 1974.

3. Fanshel, David, and Shinn, Eugene. *Dollars and Sense in Foster Care.* New York: Child Welfare League of America, 1972.

4. Helfer, Ray. *The Diagnostic Process and Treatment Programs for Child Abuse and Neglect,* Department of Health, Education, and Welfare publication no. OHD 75–69. Washington, D.C.: U.S. Government Printing Office, 1975.

5. Pavenstedt, Eleanor. "An Intervention Program for Infants in High Risk Homes," *American Journal of Public Health,* May 1973, vol. 63.

6. Steele, Brandt. *Working With Abusive Parents,* Department of Health, Education, and Welfare publication no. OHD 75–70. Washington, D.C.: Government Printing Office, 1975.

Related Standards

The following standards may be applicable in implementing Standard 14.25:

11.8 through 11.16 (Statutory Bases for Coercive Intervention)
14.26 Endangered Children — Dispositions Other Than Removal
14.27 Endangered Children—Removal of the Child From the Home
14.28 Endangered Children—Initial Agency Plans —In-Home Treatment Programs
14.29 Endangered Children—Initial Agency Plans —Removal

Standard 14.26

Endangered Children—Dispositions Other Than Removal

In ordering a disposition other than removal of the child from the home, the court should select services designed to alleviate the immediate danger to the child, to mitigate or cure any harm the child has already suffered, and to aid the parents so that the child will not be endangered in the future. The court should choose those services which least interfere with family autonomy, provided that the services are adequate to protect the child.

Commentary

This standard governs dispositions not involving removal of the child from the home. It rejects the open-ended "best interests of the child" formula that is widely used as the sole criterion for selecting a disposition. Instead, it directs the court to select services designed to alleviate and correct the damage the child has suffered and to assist the parents to insure that the child will not be endangered in the future. It further stipulates that the court should select the services that least interfere with parental autonomy, provided they are adequate to protect the child.

Obviously, many parents who endanger their children suffer from a multitude of problems, and it is tempting to advocate wide-ranging intervention to try to provide children with better environments. However, in light of the finite resources available for helping children and our limited knowledge of how to assist such families, and because coercive intercession invariably has harmful as well as positive effects, the scope of such intervention should be limited to correcting the problem at hand and preventing the recurrence of similar harms. For example, if a child is endangered by virtue of unsafe home conditions, the dispositional order might only direct that the parent be helped to correct the conditions and that a homemaker be placed in the home for a time to assure that the parent is able to keep it safe.

In some cases, although the child was endangered, the court might even dismiss the petition if it concludes that the danger was purely of a one-time nature or that the traumatic impact of coercive intervention will outweigh its beneficial effects. In other situations, the court might order informal supervision but no formal casework plan. In all cases, however, the court should take action sufficient to insure that the child will be protected from further harm. If the family wants to obtain other services, they can of course request these be provided on a voluntary basis.

References

1. Areen, Judith, "Intervention Between Parent and Child: A Reappraisal of the State's Role in Child Neglect and Abuse Cases," *Georgetown Law Journal*, March 1975, Vol. 63.

2. Brown, George (ed.), *The Multi-Problem Dilemma: A Social Research Demonstration With Multi-Problem Families*. Metuchen, N.J.: Scarecrow Press, 1968.

3. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children*, tentative draft. New York: Institute for Judicial Administration, 1976.

4. Mnookin, Robert. "Foster Care—In Whose Best Interest?" *Harvard Education Review*, November 1973, Vol. 43.

Related Standards

The following standards may be applicable in implementing Standard 14.26:

11.16 Intervention Under These Standards

14.25 Endangered Children — Dispositional Resources

14.28 Endangered Children—Initial Agency Plans —In-Home Treatment Programs

Standard 14.27

Endangered Children—Removal of the Child From the Home

In the dispositional phase of Endangered Child proceedings, the child should not be removed from the home unless the court finds that:

1. The child has been endangered in the manner specified in Standard 11.10 and there is a preponderance of the evidence that removal is necessary in order to protect the child from further nonaccidental physical injury; or

2. The child has been endangered in a manner specified in Standard 11.9 or Standards 11.11 through 11.15 and there is clear and convincing evidence that removal is necessary in order to protect the child from further harm of the type precipitating intervention; and,

3. There is a placement available in which the child's physical and emotional well-being can be adequately protected.

Those advocating that the child be removed should bear the burden of proof on these issues.

Commentary

Almost all States currently authorize removing the child from the home when the court finds such removal is "in the best interests of the child." That test is rejected by this standard. In its place, the standard provides that a child may be removed from the home only if it is shown that removal is necessary in order to protect the child from the specific harm precipitating intervention.

The "best interests" test is deficient in a number of respects. First, no legislature has provided statutory guidelines enumerating the factors a court should consider in determining the child's "best interests." Obviously, this term may mean many different things. Should a court be concerned with the child's physical well-being, intellectual development, material comforts, emotional stability? What weight should be given to each factor? Is the court to determine the child's "best interests" in the short run or the long run?

In the absence of legislative definition, there has been considerable variation among judges in applying the test. Decisions may reflect an individual judge's views of a proper upbringing. As a result, there has been unequal treatment of parents and children, discrimination on the basis of race and social class, and judicial decisions based on value judgments not commonly held by society or approved by the legislature.

In addition, the "best interests" formula facilitates unwarranted removal of children from the home. In practice, the "best interests" standard allows social workers to seek removal and allows courts to order such removal to protect children from "evils" in the home environment even though there is no sound basis for believing that these factors will have any short- or long-term negative impact on the child. The "best interests" test allows courts to order removal to protect children from harms other than those specified in Standards 11.9 through 11.15. If the exclusion of these other "harms" from the jurisdictional criteria is correct, they should not be relevant in the dispositional phase of the proceedings.

Moreover, even if legislatures were to define "best interests" more specifically, the test would still be unsatisfactory because it requires complex calculations that are simply impossible for judges to make. As Professor Mnookin has noted, to properly apply the test a judge must

> . . . compare the probable consequences for the child of remaining in the home with the probable consequences of removal. How might a judge make this comparison? He or she would need considerable information and predictive ability. . . . [T]he judge would need to predict the probable future behavior of the parents if the child were to remain in his home and to gauge the probable effects of this behavior on the child. Obviously, more than one outcome is possible, so the judge would have to assess the probability of various outcomes and evaluate the seriousness of possible benefits and harms associated with each. Next, the judge would have to compare this set of possible consequences with those if the child were placed in a foster home. . . . Such predictions involve estimates of the child's future relationship with the foster parents, the child's future contact with natural parents and siblings, the number of foster homes in which the child ultimately will have to be placed . . . and myriad other factors. (Mnookin, "Foster Care—In Whose Best Interest?" 43 *Harv. Educ. Rev.* P. 615, 1973.)

There simply is not sufficient data on the impact of removal, or adequate agreeement on sound clinical criteria for determining how a child will do in placement to decide the questions Professor Mnookin identifies—regardless of whether the factors that must be predicted are identified in advance or left to the court to choose. In the absence of adequate predictive capability, a test must be adopted that is within the competence of courts and social workers to administer.

Substantive Standard

This standard permits removal only when it is necessary in order to protect the child from the specific harm precipitating intervention. The burden of proof is on the intervening agency to demonstrate the need for removal by a preponderance of the evidence in cases arising under Standard 11.10 and by clear and convincing evidence in all other cases. In addition, the standard requires the court to find that there is a placement actually available in which the child will not be endangered.

This approach is consistent with the purposes of initial intervention. Courts should not be allowed to find a child endangered merely because the child might be better off living elsewhere. If this were the law, Endangered Child proceedings might be used for a massive reallocation of children to new parents. Therefore, the standards permit intervention only where it is needed to protect the child from serious harm. The relevant question at disposition is how to protect the child from this harm. If the child can be protected without removal, there is no reason to allow more intrusive State intervention.

The proposed test also avoids many of the problems caused by the "best interests" test. While a court still faces a difficult factual determination as to whether the specific harm can be avoided without removal, it at least knows the precise issue to which the facts apply. The court is not required to make value judgments or to decide issues beyond its competence. Therefore, the standard can generally be applied in an evenhanded manner.

Finally, the test helps minimize the possibility of unwarranted removal. It should sharply reduce the number of children now being removed. This decision to limit removals reflects the generally prevailing view that removal has often done more harm than good for many children. Children frequently have strong emotional ties even to "unfit" parents and when these ties are broken a child may suffer significant emotional damage. In addition, once placed in foster care, the child may suffer a number of problems. These include difficulty in establishing an identity, guilt feelings over having "abandoned" the parents, and difficulties in adjusting to new "parents," "siblings," peers, and social environment.

All of these foregoing traumas are frequently compounded since children in foster care are often subjected to multiple placements. And each move destroys the continuity and stability or relationships needed to help a child achieve stable emotional development. While removal may be necessary in some cases, it should be used cautiously and only when available alternatives are not adequate to protect the child.

Burden of Proof

The standard specifies that the agency advocating removal bears the burden of proof on the need for removal. This approach is consistent with the presumption for parental autonomy and the objective of preserving stable, ongoing relationships with parental figures whenever possible. Moreover, it should encourage social workers to work with families rather than take the easier road to removal.

Placing the burden on the intervening agency is also justified on grounds of fairness. The agency, not the parents, knows the resources that might help the parents keep the child. Even parents with counsel may not be able to put together a plan for safeguarding the child at home. Placing the burden on the agency forces it to examine the alternatives within its knowledge and explain why they are not satisfactory.

Standards of Proof

Although the burden is always on those advocating removal, the level of proof differs depending on the basis for intervention. The need for removal must be shown by clear and convincing evidence if intervention is premised on Standard 11.9 or Standards 11.11 through 11.15. It must be shown by a preponderance of the evidence when the child is endangered within the terms of Standard 11.10 relating to nonaccidental physical injury (physical abuse).

Physical abuse, as compared with the other grounds for intervention, usually involves the most substantial threat of permanent injury and even death. Moreover, such abuse can take place rapidly. Without placing someone in the home on a 24-hour basis, there is no certain way to prevent its occurrence. While removal is by no means always necessary to protect the child, especially in cases of less serious injuries, the best available evidence indicates that in as many as 20 percent of all cases the child cannot be adequately protected from further abuse while left at home, even if the parents participate in good treatment programs. Unfortunately, we cannot predict exactly which parents will abuse their children even if supervised. Given the magnitude of the harm, the relative certainty that removal will present further physical harm, and the substantial evidence that many parents repeatedly abuse their children, it is too risky for the child to require the higher standard of proof in such cases.

In the nonphysical-abuse situations that justify intervention, removal is less certain to be beneficial and the possibility of protecting the child at home is higher. Thus, this standard requires clear and convincing evidence before removal may be ordered in such cases.

Although removal is inappropriate in many cases in which intervention is premised in Standards 11.11 through 11.15, there are still situations under these standards in which the child should be removed from the home. The kind of evidence used to meet the clear and convincing evidence requirement might include a failure of previous inhome services to alleviate the situation, the child's desire to leave the home, a parental condition such as drug addiction or alcoholism that causes the inadequate care and cannot be treated rapidly enough to assure the child's safety, or the absence of parental desire to keep the child. Also, if the extent of harm in the particular case is very severe, removal is more likely to be appropriate.

Adequate Placement Available

Finally, the standard requires the court to find that a placement is in fact available in which the child's physical and emotional well-being can be adequately protected. At present, children are often removed on the assumption that they will receive a foster home or a residential treatment placement. But sometimes these placements fail to materialize. As a result, children may spend weeks, months or even their entire placement in extremely inadequate holding institutions. Many such institutions do not provide adequately for the child's emotional well-being. Some cannot even protect the child's physical well-being. If we are truly going to help children by coercive intervention, placement should occur only when there is an adequate living environment for the child.

References

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3. Mnookin, Robert. "Foster Care—In Whose Best Interest?" *Harvard Education Review*, November 1973, Vol. 43.
4. Phillips, Michael; Shyne, Ann; Sherman, Edmund; and Haring, Barbara. *Factors Associated With Placement Decisions in Child Welfare.* New York: Child Welfare League of America, 1971.
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7. Weinstein, Eugene. *The Self-Image of the Foster Child.* New York: Russell Sage Foundation, 1960.

Related Standards

The following standards may be applicable in implementing Standard 14.27:

11.8 through 11.16 [Statutory Bases for Coercive Intervention]

14.25 Endangered Children—Dispositional Resources

14.29 Endangered Children—Initial Agency Plans—Removal

Standard 14.28

Endangered Children—Initial Agency Plans—In-Home Treatment Programs

Whenever the child is left in the home, the agency should develop with the parents a specific plan, detailing the changes which must be made in order for the child not to be endangered, the services which will be provided to the parents and/or the child, and the agency's expectations regarding parental conduct. This plan should serve as a basis for future court review of agency and parent performance.

Commentary

At present, agency plans for intervention strategies, if they exist at all, often tend to be vague or ill defined. Parents frequently play a very minor role in the planning process or are excluded altogether. This absence of adequate planning has resulted in a number of problems. It often delays or thwarts the effective provision of services. It also can preclude sound evaluation of the intervention effort. As a result, home situations may not improve, the child may be reinjured, and removal become necessary. On the other hand, casework sometimes continues for years and years, at great public cost with little benefit to the child and with substantial invasion of family privacy.

Therefore, this standard provides that the agency should develop a specific casework plan at the time of the initial disposition. To insure the effectiveness of the plan and to emphasize the nonpunitive nature of the intervention, the parents should be encouraged to participate fully in developing the plan. It should outline the specific services that will be provided and detail for the parents the changes that will be necessary for supervision to terminate. The court should insure that the parents are fully informed about the potential consequences of the intervention and what action may be taken if the required changes do not occur. Moreover, the agency's plan should specify what measures it will use to determine that supervision is no longer necessary. In this way the effectiveness of the plan and the need for continued supervision can be evaluated within the agency and by the court.

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Care: Plans and Actualities," *Public Welfare*, Spring 1974, vol. 32.

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Related Standards

The following standards may be applicable in implementing Standard 14.28:

14.25 Endangered Children—Dispositional Resources
14.26 Endangered Children—Dispositions Other Than Removal

Standard 14.29

Endangered Children—Initial Agency Plans—Removal

Whenever the child is ordered removed from the home, the agency should develop with the parents a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. The plan should specify what services the parents will receive in order to enable them to resume custody and what actions the parents must take in order to resume custody. This plan should serve as a basis for future court review of agency and parent performance.

The child should usually be placed as close to his or her home as possible, preferably in the same neighborhood, and, the agency should be required to facilitate maximum parent-child contact, including visitation and participation by the parent in the care of the child while in placement, unless otherwise ordered by the family court.

The agency also should be responsible for assuring that all ordered services are provided. It should report to the court if it is unable to provide such services, for whatever reasons. The agency may perform services other than those ordered, as necessitated by the case situation.

Commentary

If the objective of preserving family units whenever feasible is to be achieved, competent planning designed to help the parents regain custody must be insured. The absence of such planning is perhaps the central defect in the existing system. A recent study of one State's foster services program found that:

> For a substantial proportion of caseworkers foster care practice is not goal-oriented but oriented to maintenance of existing arrangements as a status quo. It is a practice of drift characterized by inertia, inactivity except in crisis, and an unwillingness to make decisions and judgments about evidence that would rule out unacceptable alternatives and move toward justifiable ones. (Regional Research Institute for Human Services, School of Social Work, Portland State University, *Barriers to Planning for Children in Foster Care: A Summary*, p. 15, 1976.)

To insure effective planning the supervising agency must define its casework objectives. Frequently, overworked caseworkers focus only on the child in foster care and fail to provide the parents with needed services that would enable them to resume custody. This standard seeks to maximize efforts to reunite the family by specifically outlining the necessary elements of effective planning.

In particular, the standard stresses the importance of parental participation in the planning process. Parental involvement is essential if families are to be reunited in the shortest time possible. Often parents can identify relatives or friends who might provide the most appropriate placement. Parental participation may minimize the child's trauma over separation by facilitating continuing parent-child contacts. Moreover, the request for parental assistance may help to impress the parents that the placement program is intended to be therapeutic rather than punitive.

The court should be able to inform the parents on record what services they can expect and what types of changes must be made to make the home safe. The court should review the plan to insure that the agency is realistic in its expectation of what the parents must do to resume custody and in its ability to provide the services promised. It should be made explicit that the goal of the plan is to facilitate return when possible. The court should also insure that the parents are fully informed about the potential consequences that may result if they fail to make the necessary changes.

The agency should be required to facilitate maximum parental visitation. Several recent studies thave shown that this is the key to reuniting families. To encourage visitation, the child should be placed as close to home as possible. Parents also should be encouraged to participate in the child's care by, for example, buying him or her clothing, taking him or her to doctor's appointments, and participating in school affairs. Efforts to maximize parent-child contact should occur in every case unless otherwise ordered by the family court. The court should not authorize an exception to the policy of maximum visitation unless it explicitly finds that such visitation will prove detrimental to the child.

The court should also require that a specific person in the agency be responsible for the case at all times. In many instances, a child remains in care with nobody responsible for the case. This not only minimizes the possibility of return but is often harmful to the child, who has no consistent worker to whom he or she can relate. To insure continued responsibility, the agency should notify the court, the parents, and the child whenever there is a change in the caseworker reponsible for the case.

Finally, the standard states that the initial plan should be used as a basis for evaluating agency and parent performance. The agency is explicitly charged with responsibility for assuring the delivery of court-ordered services and must report promptly to the court if it is unable to provide such services.

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6. Shapiro, Dorothy. "Agency Investment in Foster Care: A Follow-Up," *Social Work*, Nov. 1973, vol. 18.

7. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: Standards for Removal of Children From Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights," *Stanford Law Review*, Apr. 1976, vol. 28.

Related Standards

The following standards may be applicable in implementing Standard 14.29:

14.25 Endangered Children—Dispositional Resources
14.27 Endangered Children—Removal of the Child From the Home
14.30 Postdispositional Monitoring of Endangered Children—Periodic Review Hearings

Standard 14.30

Postdispositional Monitoring of Endangered Children—Periodic Review Hearings

The court should conduct a hearing to review the status of each child in placement at least every 6 months.

Commentary

Under present practice, the purpose of providing services to the family or removing the child from the home on a "temporary" basis is to facilitate the safe reunion of parents and child. But more often than not this objective is thwarted. In establishing and executing plans to return the child, agency performance frequently is woefully inadequate. In addition, some parents either effectively abandon the child or fail to make reasonable efforts to reunite the family. As a result children are often "lost" in the foster care system—remaining "in limbo" without a stable placement for periods of many years.

To minimize these difficulties, this standard requires court review of the status of children in placement at regular intervals not exceeding 6 months. This court review is essential to effective monitoring. It provides both agencies and parents with an incentive to work toward expeditious reunion. It serves as a forum in which the parents and child can effectively challenge agency inaction and where the agency can establish, on record, facts demonstrating parental disinterest in resuming custody—evidence which will be of particular importance in proceedings to terminate parental rights.

It should be emphasized that the 6-month time frame established by the standard sets the maximum allowable interval between judicial reviews. If the child can be safely returned home within a shorter period, for example 3 months, such action is to be strongly encouraged and judicial review hearings should be authorized upon the petition of an interested party. In addition, exceptional cases may arise in which, following the initial 6-month review, the agency feels compelled to petition the court prior to the next scheduled review hearing because of the parents' repeated refusal to cooperate. In general, the responsibility for working with uncooperative parents generally is the responsibility of the agency. Thus, such a petition should never be filed in the first six months of placement. Nor should it be used to undercut the time frames established for termination of parental rights (see Standard 14.32). But in some cases a petition to invoke the authority of the court before the next scheduled hearing may be necessary when working with particularly recalcitrant parents.

It should be stressed that this standard is intended to prevent review procedures that are merely pro forma. It directs that the status of each child in placement be carefully and thoroughly examined in the judicial hearing. All interested parties should be accorded the right to counsel and the admission of evidence should be governed by the rules applicable to civil cases. Moreover, in cases in which the child is not returned home after 6 months and parental rights are not terminated, the court should establish on record:

1. What services have been provided to the parents;
2. Whether the parents are satisfied with the services;
3. The frequency of parental visitation or reasons for lack of visitation;
4. Whether the agency is satisfied with parental cooperation;
5. Whether additional services are needed; and,
6. When reunion can be expected.

This standard rejects the judgment that internal agency review or other forms of administrative review are sufficient to deal with the problems of long-term placement and agency inertia. Such review procedures have been tried in a number of jurisdictions and have failed to accomplish desired goals. Internal or administrative review is a low-visibility process. Court review, with full participation of all parties, conducted in the manner specified here, is far more likely to generate meaningful activity toward return or permanent stable placement than is any other form of review.

References

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2. Festinger. "The New York Court Review of Children in Foster Care," *Child Welfare*, 1975, vol. 54.
3. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children*, tentative draft. New York: Institute for Judicial Administration, 1976.
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5. Mnookin, Robert. "Foster Care—In Whose Best Interest?" *Harvard Education Review*, Nov. 1973, vol. 43.
6. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: Standards for Removal of Children From Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights," *Stanford Law Review*, Apr. 1976, vol. 28.

Related Standards

The following standards may be applicable in implementing Standard 14.30:

14.29 Endangered Children—Initial Agency Plans —Removal
14.31 Postdispositional Monitoring of Endangered Children—Return
14.32 Postdispositional Monitoring of Endangered Children—Termination of Parental Rights

Standard 14.31

Postdispositional Monitoring of Endangered Children—Return

A child should be returned to the home when the court finds by a preponderance of the evidence that, if returned home, the child will not be endangered by the harm which precipitated intervention.

Commentary

This standard establishes the substantive criterion for determining whether to return a child to the home. Return should be ordered when the court finds that the child will not be endangered at home by the harm that brought about the intervention. This approach is consistent with the general philosophy regarding coercive intervention established by the standards in this volume: such intervention should seek to protect children from specific harms, not to provide them with ideal environments. Therefore, a child should be returned when the reason for removal no longer exists, i.e., the child will not be endangered if left at home.

This standard rejects the "best interests" test now commonly used for determining whether to return the child. The "best interests" test defeats the goal of providing the child with a permanent placement within a reasonable period of time. Under the "best interests" formula, if the child does "well" in foster care, overworked caseworkers often give very low priority to assisting the neglecting parents. Thus, the "best interests" approach tends to dilute the incentive for agencies and foster parents to concentrate their efforts on reunion. As a result, the foster care arrangement remains unstable, subject to the availability of foster parents, and the possibility of later return of the child. By contrast, the criterion set forth in this standard should encourage reunion whenever feasible and as quickly as possible. Used in conjunction with the standard on termination of parental rights, it should result in permanent placement within a year in most cases.

References

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Coercive State Intervention on Behalf of Endangered (Neglected and Abused) Children and Voluntary Placements of Children,* tentative draft. New York: Institute for Judicial Administration, 1976.

2. Maas, Henry. "Children in Long Term Foster Care," *Child Welfare,* June 1969, vol. 43.

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Related Standards

The following standards may be applicable in implementing Standard 14.31:

14.29 Endangered Children—Initial Agency Plans—Removal
14.30 Postdispositional Monitoring of Endangered Children—Periodic Review Hearings

Standard 14.32

Postdispositional Monitoring of Endangered Children—Termination of Parental Rights

Statutes governing termination of parental rights should be premised on the child's need for a permanent, stable family home, not on principles related to parental fault. Therefore, termination should be required if the child cannot be returned home within 6 months to 1 year after placement, depending on the child's age, unless:

1. Termination would be harmful to the child because of the strength of the child's family ties;

2. The child is placed with a relative who does not wish to adopt the child;

3. The child is placed in a residential treatment program and termination is not necessary to provide a permanent family home; or

4. There is a substantial likelihood that a permanent placement cannot be found and that the failure to terminate will not jeopardize the child's chances of obtaining a permanent placement.

Commentary

Termination of parental rights means the complete severance of all legal relationships between the child and the parents. When parental rights are terminated, the natural parents cannot regain custody and do not need to consent to adoption.

Under present practice, the issue of termination may arise in three contexts: at the dispositional phase of a neglect proceeding, at an adoption hearing, or at a special termination proceeding. The guidelines of this standard are meant to apply only in cases involving chlidren in court-ordered foster care as a result of an Endangered Child proceeding. It is intended that termination for these children be considered only by the court that ordered placement; i.e., the issue of termination should be addressed as part of the ongoing monitoring of the status of children in foster care.

This standard proposes a major shift in the structure of termination laws. Most State statutes now focus largely on the parents rather than the child. They allow termination only if the parents are in some way blameworthy, because they have either abandoned the child or engaged in other types of disapproved conduct. Few statutes require that the need for termination be considered after the child has been in care for a given period of time. As a result, termination is an infrequent occurrence.

This standard directs that, as a general rule, either children should be returned to their home or parental rights should be terminated after a period of 6 months to 1 year, depending on the child's age. The 6-month time frame applies to children less than 3 years of age; the 1-year period, to children past the age of 3. For nearly two decades authoritative commentators have emphasized that a majority of children placed in "short-term" foster care remain there for a period of many years—often until they reach majority. These children are frequently subjected to numerous moves and are seldom able to establish meaningful ties to parental figures. To minimize such damaging practices, these standards require that every effort be made to either return the child to the home or provide another permanent placement in a reasonable period of time.

It must be recognized that if, as these standards propose, removal is used very sparingly, the chances of rehabilitating the parents may not be very high. Moreover, as the length of foster placement increases, the chances of either return or adoption diminish and multiple placements increase.

Extensive evidence from child development experts has demonstrated that children have their own sense of time that differs from that of adults. What appears to be only a short period of separation from an adult perspective may be excruciating for a very young child. Therefore, a final determination on whether to return the child to the home or to terminate parental rights should generally be made at the end of 6 months for children younger than 3. In some cases involving very young children, termination may even be appropriate at the time of the initial placement. For children older than 3, a year is appropriate. If the child cannot be returned home at the end of 1 year, the amount of harm becomes so great and the chances of return so small that further delay is unwarranted.

Recognizing that there may be cases in which a final decision on termination within the 6- to 12-month time frame is either unwise or unfortunately impracticable, the standard incorporates four exceptions to this general requirement. First, in cases that clearly demonstrate that such termination would prove quite damaging to the child because of the strength of family ties, courts may defer a final decision. In such cases continuing judicial monitoring in accordance with Standard 14.30 is, of course, essential. Second, in cases in which the child has been placed with a relative who does not wish to adopt, the child's needs for continuity in relationships may well be met and termination may thus be inappropriate. Third, if the child, because of emotional or other problems, is placed in a residential treatment setting, termination is unnecessary and continued parental contact may be beneficial to the child. Fourth, if there is substantial likelihood that a permanent placement cannot be secured and the failure to terminate will not jeopardize the chances of obtaining a permanent placement, a postponement of the termination decision may also be permissible. It is, however, extremely important to emphasize that the latter exception should be narrowly construed. Courts should employ rigorous scrutiny to insure that social service agencies make diligent efforts to secure a permanent placement for each child.

References

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3. Katz, Sanford; Howe, Ruth-Arlene; and McGrath, Melba. "Child Neglect Laws in America," *Family Law Quarterly*, Spring 1975, vol. 9.

4. Maas, Henry and Engler, Richard E., Jr. *Children in Need of Parents*. New York: Columbia University Press, 1959.

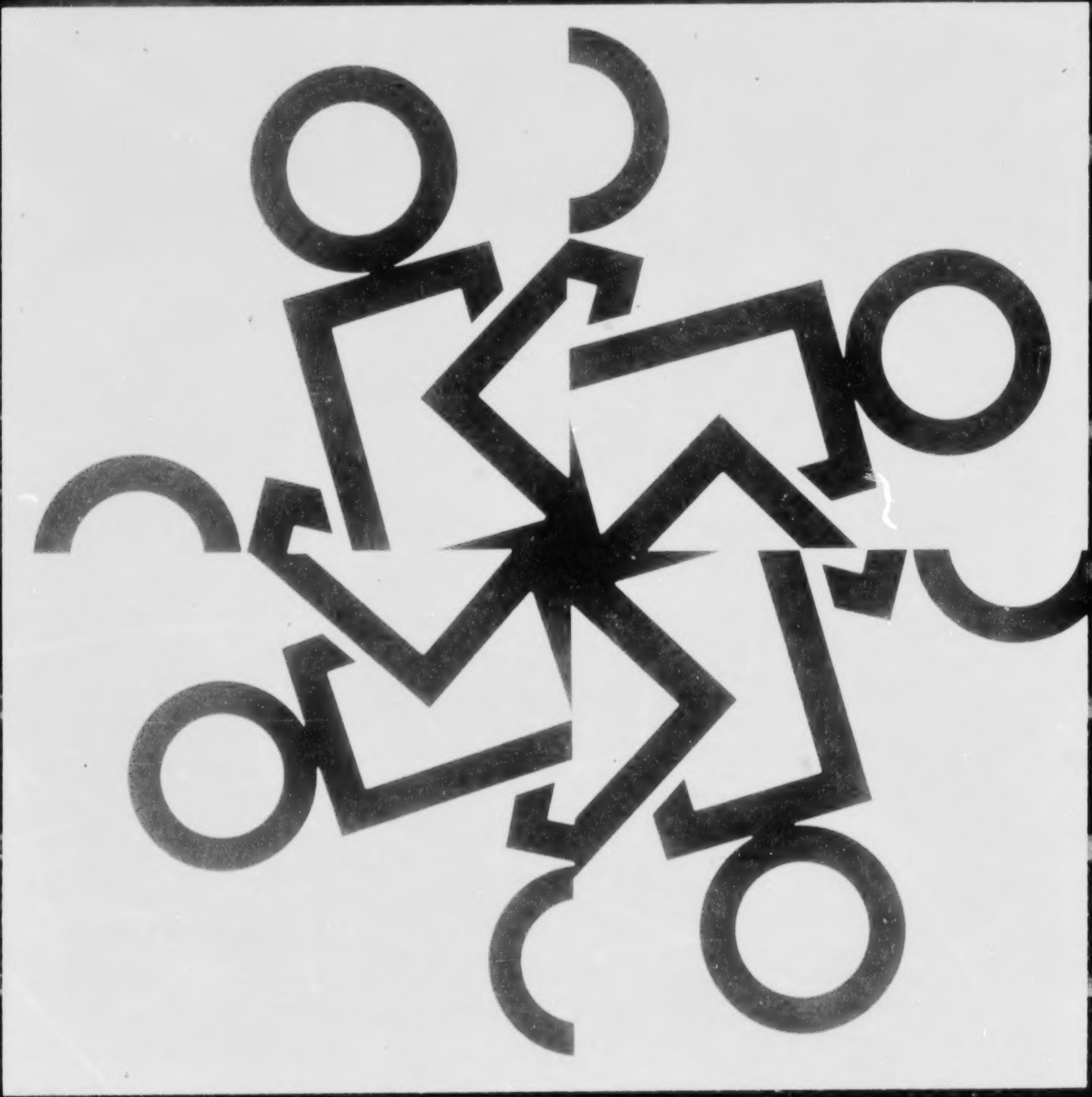
5. Wald, Michael. "State Intervention on Behalf of 'Neglected' Children: Standards for Removal of Children From Their Homes, Monitoring the Status of Children in Foster Care, and Termination of Parental Rights," *Stanford Law Review*, April 1976, vol. 28.

Related Standards

The following standards may be applicable in implementing Standard 14.32:

14.29	Endangered Children—Initial Agency Plans—Removal
14.30	Postdispositional Monitoring of Endangered Children—Periodic Review Hearings
14.31	Postdispositional Monitoring of Endangered Children—Return

Chapter 15
Family Court Prosecution Services



INTRODUCTION

In examining the role of the prosecuting attorney in the family court, it is apparent that those in legal circles have paid inadequate attention to the position of government counsel in such proceedings. Although *In re Gault*, 387 U.S. 1 (1967) hastened the advent of defense counsel in the family court, the process of developing the proper role, training, and functioning of counsel for the government has been slow in maturing.

Many jurisdictions have retained the informal, nonadversarial nature of juvenile court proceedings. In doing so, these jurisdictions have made little or no provision for representing the State's interests, or they have limited the appearance of government counsel to situations where the juvenile court judge requests the presence of such counsel. This development has resulted in inadequate and uneven representation of the State's interests in the juvenile court.

The standards in this chapter seek to rectify this situation and to bring performance standards for government counsel in the family court up to the level found in the criminal justice system in general.

Two basic principles underlie the standards to follow. The first involves a recognition that juvenile court proceedings are no longer nonadversarial in nature. Therefore, the interests of the State must be effectively represented. To accomplish this, an attorney for the State, referred to in the standards as "the family court prosecutor" or "the prosecution," may participate in every proceeding of every stage of every case subject to the jurisdiction of the family court, in which the State has an interest.

The family court prosecutors should always appear in contested delinquency cases. In other family court matters they should decide which cases and proceedings to participate in, although the standards also provide that the family court, in exercising its discretion, may order family court prosecutors to appear and participate.

The second principle is that the family court prosecutors, while acting as vigorous advocates for the State's interests, should not lose sight of the philosophy and purpose of the family court: to insure the best interest of the youths involved. Their primary duty is to seek justice, and they may sometimes function as adversaries; they should pattern their conduct on that of traditional criminal prosecutors.

It may appear that these two principles are contradictory, but this need not be the case. The standards in this chapter affirm that these principles can be resolved. The interests of the State will vary throughout the various stages of family court proceedings, and the vigor with which family court prosecutors assert their adversarial posture also will vary from the intake stage to final actions.

The cornerstone of these standards is the creation in the local prosecutor's office of a separate division or attorney devoted to representing the State in family court. However, for practical reasons, this recommendation of a separate family court prosecutor applies to local prosecutor's offices with at least six attorneys.

Family court prosecutors should be employed on a full-time basis, with a professional and nonprofessional full-time staff. Further, the family court prosecutors and their staffs should be paid a salary commensurate with that paid attorneys in other public agencies.

Family court prosecutors should have professional staffs adequate to deal with all family court cases in their jurisdictions, along with clerical and paralegal workers, law student interns, investigators, and police liaison officers. Such staff should be separate and distinct from those in the prosecutor's office who handle adult criminal cases. In this manner, the family court prosecutor will approach the ideal independence from the criminal prosecution system.

The concept of independence is basic to the purpose of these standards. Family court prosecutors must be highly trained and motivated professionals who are expert in the field of juvenile justice. To that end, this report also recommends intensive training for both the professional and nonprofessional staff of the family court prosecutor.

One of the most important phases of family court proceedings is the preadjudication phase dealing with intake of cases. Other standards have recommended creation of an intake agency separate from the family court and the family court prosecutor. This agency is to be an executive office created and staffed specifically for the purpose of performing the intake function.

The standards have created two levels of intake. While the intake officer takes the initial steps in this process, the final decision on whether a petition is to be filed in the family court is made by the family court prosecutor. The latter's decision may include a motion to transfer the case to the criminal court for prosecution as an adult. In exercising discretion at the intake stage of the proceedings, the family court prosecutor must balance the interests of the State and the community's safety and welfare with the best interests of the child. However, where the family court prosecutor persistently and/or unreasonably refuses to file a petition and the complainant feels very strongly that family court proceedings should be initiated, the standards provide for direct access to the family court by verified petition.

The issue of the family court prosecutor's role in plea negotiations is a difficult one that mirrors a continuing debate on the propriety of that practice. Few issues have divided our system of justice more dramatically than this one. The National Advisory Commission on Criminal Justice Standards and Goals' Report, *Courts* (1973), advocated the abolition of guilty pleas in criminal cases as soon as possible, and in no event later than 1978; however, the ABA *Standards for Criminal Justice, Pleas of Guilty* (1968) sanctioned plea negotiations and agreements.

This report concludes that plea negotiations and plea agreements are not to be used in juvenile proceedings by any of the parties or participants. Therefore, the standards in this chapter provide that the family court prosecutors should scrupulously avoid all activity of this type.

In most jurisdictions, the prosecutor has traditionally made no recommendation on disposition following adjudication. To some extent, this was probably a natural outgrowth of the negative view toward an adversary role for the prosecutor in the proceedings. These standards do not anticipate that the prosecutor will mirror the traditional adversarial role of the criminal prosecutor; however, they do require the family court prosecutor to take an active role at the dispositional stage of family court proceedings, and to make an independent dispositional recommendation. When the prosecutor is required to participate in the proceedings at this stage, the community's safety and welfare are adequately protected. At the same time, this report recognizes that the family court prosecutor is as much an expert on the proper social and rehabilitative bases for disposition as any of the other participants in the juvenile justice system.

Standard 15.1

Family Court Prosecution Services—Organization

In each local prosecutor's office in which there are at least six attorneys, there should be a specialized division or attorney devoted to representing the State in family court. The attorney in charge of this unit should be known as the family court prosecutor.

Commentary

In virtually every State, the attorney who represents that State's interests in juvenile proceedings is a member of the staff of the local prosecuting attorney, whether the title be State's attorney, Commonwealth's attorney, solicitor, etc. Unless the office is of sufficient size to warrant a separate attorney or division devoted exclusively to juvenile and/or other family law matters (such as support law enforcement, paternity, or adoption), that attorney's time is usually divided between criminal prosecution, civil duties, and a juvenile caseload.

Some States charge the county or city attorney with the duty to prosecute juvenile cases rather than the local prosecuting attorney who has primarily criminal duties.

In 1967, the President's Commission on Law Enforcement and Administration of Justice (Task Force on Juvenile Delinquency and Youth Crime) discouraged the use of a public prosecutor in juvenile court on the basis that it would be too great a departure from the spirit of the court. The Commission opted instead for the use of a government attorney with primarily civil duties, such as a corporation counsel or an attorney representing the welfare department. This position was taken at the threshold of a revolution in the juvenile court, ushered in by *In re Gault*, 387 U.S. 1 (1967). In light of the trend toward greater formality, as well as expansion of due process rights in the context of the juvenile court, it is doubtful that the 1967 Task Force would take the same position today.

This standard is designed to insure that the family court prosecutor does not function as a traditional criminal prosecutor and does not lose sight of the special nature of the family court and the need to accommodate the interests of rehabilitating the juvenile. It is true that placing the family court prosecutor's function in the local prosecutor's office may perpetuate the criminal aspects of the attorney's role. However, there may be practical difficulties in establishing a new or separate executive branch in a given community. Therefore, this report recommends a specialized division within the local prosecutor's office, provided community resources will permit creation and staffing of the specialized unit.

The standard is directed toward prosecution offices of approximately six attorneys. The goal of specialization is largely unattainable for the smaller (i.e., one- or two-attorney) prosecution offices in rural areas, although those offices are encouraged to adopt such portions of this standard that are practical. In any event, the number of attorneys mentioned here is flexible and used only to provide guidance.

There are many reasons for encouraging specialization in the prosecution function of the family court. First, specialization will promote expertise in prosecuting attorneys working exclusively in the area of family law. Second, there is less likelihood of role confusion if prosecutors devote their time exclusively to family court matters. When prosecutors handle both family and felony court cases simultaneously, they are less likely to remember that they represent not only the interests of the State, but also interests of the youths involved. These prosecutors also forget that they are not following the traditional criminal adversary role in family court.

Third, a more consistent policy of handling juvenile and family matters is likely to evolve with the creation of one legal unit. Finally, a montoring process is more likely to occur if a separate unit handles juvenile and family cases exclusively. Such monitoring would focus on the effectiveness of various modes of disposition and the interaction between the prosecution authority and the community on juvenile justice issues.

References

1. *Arizona Revised Statutes Annotated,* Section 8-233 (Supp. 1973).

2. *In re Gault,* 387 U.S. 1 (1967).

3. *Iowa Code Annotated,* Section 232.29 (West 1969).

4. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft no. 6; April 1976).

5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 15.1:

8.2 Family Court Structure

15.2 Family Court Prosecution Services—Full-Time Function; Salary

15.4 Family Court Prosecution Services—Separate and Adequate Staff

Standard 15.2

Family Court Prosecution Services—Full-Time Function; Salary

If possible, the family court prosecutor, assistant family court prosecutors, and clerical staff should be employed on a full-time basis. Paralegal workers and law student interns may be employed on a part-time basis. Salaries of the family court prosecutor and his attorney staff should be comparable to those of attorneys in other public agencies.

Commentary

Full-time employment of both the family court prosecutor and his professional staff will help to avoid conflicts of interest and insure that only those attorneys interested and qualified in family law will be attracted to and retained by the office. Further, employing one full-time person to specialize in family court matters is preferable to hiring several part-time persons.

The use of paralegal workers, and particularly of law student interns, is recommended. These individuals can perform many of the simpler and more routine tasks in the office, conserving the time of the family court prosecutors and their attorney assistants, and allowing them to concentrate on complex and major problems.

Many States now have student practice rules that permit qualified law students to make court appearances as part of established law school clinical programs, and in some cases, as part of less-structured intern programs run by legal aid, public defender, and government law offices. Such programs should be encouraged by family court prosecutors, who should seek to take part in them whenever possible. In addition, the use of law student interns will foster the interest, concern, and expertise of those students in the field of juvenile justice. Also, graduates of law schools who intern with the family court prosecutor's office can contribute significantly to upgrading the entire juvenile justice system.

If the premise of a full-time family court prosecution function is accepted, a logical corollary relates to the salaries paid to family court prosecutors and their staffs. These salaries should be at a level sufficient to reduce substantially any temptation to assume extra work outside the office. Such remuneration should also contribute to fostering the ideal of careerism in family court prosecution services.

This standard provides that salaries paid to family court prosecutors and their attorney staff members should be commensurate with those paid to attorneys in other public agencies. Such pay scales should place these individuals on a par with their peers and will attract those who are best qualified for the positions.

The job of family court prosecutor should be a professionally desirable position, and stability in the professional staff of the office should be fostered. Satisfactory pay levels will help obtain and retain respect for the position throughout the bar and the community as a whole. These pay scales also will help maintain continuity in family court prosecution personnel by reducing an employee's need to accept another position or enter private practice to obtain an increase in income.

References

1. Council on Legal Education for Professional Responsibility. Newsletter No. 5, *State Rules Permitting the Student Practice of Law: Comparisons and Comments*. New York: Council on Legal Education for Professional Responsibility, Inc., 1971.

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

3. National District Attorneys Association. *Report, National Law Student Internship and Placement Program*. Chicago, Illinois: National District Attorneys Association, 1975.

Related Standards

The following standards may be applicable in implementing Standard 15.2:

15.1 Family Court Prosecution Services—Organization
15.4 Family Court Prosecution Services—Separate and Adequate Staff
15.11 Leadership Responsibility of Family Court Prosecutor
16.11 Adequacy of Compensation for Attorneys in Family Court Matters

Standard 15.3

Family Court Prosecution Services—Selection Criteria

Family court prosecutors should be attorneys admitted to practice before the highest court in the State, and should be selected on the basis of interest, education, experience, and competence. They should have prior criminal prosecution or other trial experience.

Commentary

The five criteria for selecting family court prosecutors are based on one overriding consideration—relevance. The first criterion is that family court prosecutors should be prepared to appear in any and every State court where litigation arising from their jurisdictions may be heard, including appeals from orders of the local family court. Admission to practice before the highest court in the State will insure the prosecutors' ability to practice in all inferior courts. In many States, admission to practice is regulated by the highest State court and includes the right to practice before that court.

The second criterion is perhaps the most subjective of the five. The candidate should express an interest in criminal and family law, and in working with children. Beyond this, interest can probably be evaluated best through an examination of the candidate's education and experience.

The third criterion, education, has two facets: legal and general. The family court prosecutor should have an LL.B or J.D. degree. However, the Family Court prosecutor also should possess a degree in a discipline indicating an exposure to and interest in community and children's problems. Thus, a candidate with undergraduate or graduate study in psychology or sociology is to be preferred over a candidate whose education focused on, for example, accountancy or engineering. One whose educational background involved specializing in the problems of children would present even stronger educational credentials.

The educational background of candidates for the position of family court prosecutor is important but need not be a controlling factor in the selection process. In this regard, the experience of the New York City Juvenile Courts is instructive. In 1962, the New York Legislature passed a Family Court Act that provided for counsel or a law guardian to be appointed for juveniles in family court. Reportedly, the majority of lawyers doing this work are young and receive low pay. Generally, they graduate from lesser known law schools and are not near the top of their class. However, they are described as dedicated individuals whose knowledge of juvenile court proceedings has been greatly enhanced by on-the-job training.

The fourth criterion, experience, springs from the belief that the family court prosecutor should not be an entry-level position into the legal profession. In large jurisdictions, family court prosecutors will have attorney assistants working under them and should have enough experience to advise those assistants properly.

Even if a jurisdiction has a specialized family court prosecution unit that consists of only one attorney, that individual should have enough experience to perform the job independently. Ideally, the family court prosecutor would have prior experience as a prosecutor in juvenile court; in any event, previous criminal prosecution or other trial experience is a must. In addition, experience in working with children (e.g., as a teacher or summer camp counselor) also is desirable.

The fifth criterion, competence, is basically a function of experience but is listed independently to underscore the point that the experience a candidate brings to the job must be positive. Thus, the local prosecutor should check the references of an applicant to ascertain whether or not the latter has performed well in past positions.

As general propositions, these criteria may appear obvious. However, they have been listed here to offer some direction to the selection process. Their listing is intended to be illustrative rather than exhaustive. Depending on the composition of the community, other criteria also may be relevant. No attempt has been made here to evaluate the suggested criteria in terms of their relative importance. That judgment must be made by the local prosecutor or the agency responsible for selecting the family court prosecutor.

Other factors may be considered in the process of selecting a family court prosecutor if they are relevant to a determination of the community needs served by that prosecutor. Examples of such factors are sex, race, religion, and ethnic background.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

2. Paulsen, Monrad. "The Expanding Horizons of Legal Services-II." *West Virginia Law Review*, Vol. 67 (1965).

Related Standards

The following standards may be applicable in implementing Standard 15.3:

8.1 Level and Position of Court Handling Juvenile Matters
8.2 Family Court Structure
15.6 Family Court Prosecution Services—Staff Training
15.11 Leadership Responsibility of Family Court Prosecutor
15.13 Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings

Standard 15.4

Family Court Prosecution Services—Separate and Adequate Staff

Family court prosecutors should have professional staffs adequate to handle all family court cases in their jurisdiction, as well as clerical and paralegal workers, law student interns, investigators, and police liaison officers. Where practicable, such staff should be in an organizational unit that is separate and distinct from those prosecutors who handle adult criminal cases.

Commentary

The family court prosecutor should have a specialized staff, distinct from that of the adult crime prosecutor. Members of that staff are expected to develop expertise in the processing of family court cases; this goal will be greatly enhanced if staff people devote their full attention to the processing of family-related matters.

A specialized, separate staff may be unattainable for many family court prosecutors because of such factors as the size of the jurisdiction served, the nature of the local prosecutor's office, and the particular resources of the community. In such circumstances, local prosecutors should at least have a separate, specialized family court prosecution service as a long-range objective.

Family court prosecutors should each have at least one investigator at their exclusive disposal, but there still may be times when their staffs are inadequate in number or not experienced or knowledgeable in a particular area of investigation. When such a situation arises, the family court prosecutor should have access to the local prosecutor's investigative staff. Again, the size of the jurisdiction, the nature of the prosecutorial office, and the circumstances of the community must be considered.

Family court prosecutors also should include on their staffs one or more police liaison officers. Cooperation between the police and the prosecutor is essential to the successful representation of the State's interest in family court, and the use of a police liaison officer would go far toward establishing and maintaining smooth working relationships. Candidates for the liaison position should include among their credentials experience as police officers. In smaller jurisdictions, such persons may not be available, but family court prosecutors in jurisdictions that can employ those with police experience should do so. In any event, the prosecutors should strive to establish and maintain smooth working relationships with the police and those responsible for prosecuting adult criminal cases.

Reference

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

Related Standards

The following standards may be applicable in implementing Standard 15.4:

8.2 Family Court Structure

15.1 Family Court Prosecution Services—Organization

15.2 Family Court Prosecution Services—Full-Time Function; Salary

15.6 Family Court Prosecution Services—Staff Training

15.7 Presence of Family Court Prosecutor at Family Court Proceedings

Standard 15.5

Family Court Prosecution Services—Selection of Staff

The Family Court Prosecutor's staff should be selected under the same general criteria as the family court prosecutor. This staff should represent, as much as possible, a cross-section of the community, including minority groups.

Commentary

Unless a jurisdiction has sufficient resources to structure the family court prosecution service as a separate executive function, the service will be a unit of the local prosecutor's office and the family court prosecutor will serve at the pleasure of the local prosecutor. Therefore, it is logical to expect that the local prosecutor also will appoint the staff of the family court prosecutor.

Each member of that staff should have background in working with children and the particular community problems the family court prosecutor serves. Basically, the criteria for selecting the staff, whether professional or nonprofessional, should be similar to the criteria for choosing the prosecutor, as discussed in Standard 15.3 and its commentary.

These standards assume that the political affiliation of an applicant for any position, of whatever rank, in the family court prosecutor's office is an irrelevant criterion.

The staff, particularly those who will come in direct contact with young people and the community as a whole, should include minority groups and women. This will help engender a greater awareness and understanding of the problems those groups face. Including minority group staff members also might help prevent delinquency or help rehabilitate delinquents among minority youth, who otherwise may feel that the system is loaded against them.

The term "minority group" includes the major racial, religious, and ethnic groups in the community, though the presence and composition of such groups will vary from area to area.

Reference

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function.* (James P. Manak, reporter; Working Draft No. 6; April 1976).

Related Standard

The following standard may be applicable in implementing Standard 15.5:

15.3 Family Court Prosecution Services—Selection Criteria

Standard 15.6

Family Court Prosecution Services—Staff Training

An orientation and training program is needed for the family court prosecutor and every new assistant before they assume their offices or duties. Also needed is an interdisciplinary program that provides ongoing, inservice training for both professional and nonprofessional staff in the philosophy and intent of the family court; problems of young people; and community problems, conflicts, and resources.

Commentary

The professional staff of the family court prosecution service has a special need for legal training because of the specialized nature of juvenile and family law. This needs more than just training in trial techniques and exposure to the latest cases in substantive and procedural law. Staff members also should be trained in the basic philosophy of the family court and in the social problems they must face. Staff people must know what dispositional alternatives are available in their community and State, and the quality of each in terms of care and rehabilitation; this knowledge will help to insure that the staff makes intelligent dispositional recommendations at the proper time. Staff also should receive sociological and psychological training in the problems of young people and their community.

Part of this orientation and training can be accomplished through a statewide organization of juvenile prosecutors who specialize in juvenile and family court law. This training should continue throughout the staff member's tenure with the family court prosecutor.

If the position of State prosecutor training coordinator exists, that person should administer both initial and continuing training programs. If possible, all family court prosecutors and their attorney assistants are urged to attend courses such as the Career Prosecutor Course offered by the National College of District Attorneys, and the Juvenile Justice Institute sponsored by the National District Attorneys Association and the National Association of Juvenile Court Judges.

Professional staff members also can benefit from instruction and information provided by such organizations as the National Council on Crime and Delinquency (NCCD), the Court Management Institute, the National Association of Juvenile Court Judges, and the International Association of Chiefs of Police (IACP).

Paralegal personnel can benefit from the training provided by organizations such as the Paralegal Institute in Philadelphia, Pa. In addition, many colleges, universities, and community colleges offer 2-year degree programs (usually Associate Degrees) in such subjects as legal assistant, paraprofessional training, law office management, and police science.

These organizations and programs are listed here only as illustrations of what is presently available and what is being developed in the field of training and education. In any event, the professional staff members of the family court prosecutor unit should have access to and be encouraged to participate in multidisciplinary educational opportunities.

One example of a forward-looking training program for juvenile court personnel is in Summit County, Ohio. The juvenile court there has installed closed-circuit television facilities for taping training aids, seminars, books, and other materials to supplement staff training. This court has further provided for its staff through the implementation of a management information system that allows immediate access to departmental records and reports.

Each staff member contributes to the overall effort of the family court prosecution unit to represent the interests of the State in family court. Therefore, nonprofessional members of the prosecutor's service should receive an informal orientation and training program upon taking their positions. These individuals also should participate in any continuing programs of training in the philosophy and purpose of the family court, the problems of young people, community needs and conflicts, and the resources available to deal with those issues. Such training can lead to a realization of the importance of properly performed duties and perhaps to an increase in both job satisfaction and job efficiency. Training also can help reduce staff turnover. The precise nature and extent of the training to be given to the nonprofessional will depend on the nature of the duties to be performed. However, both the initial and continuing training that each staff member receives should not be limited to the duties of a particular position.

References

1. Boston University, School of Law, Center for Criminal Justice. *Prosecution in the Juvenile Courts: Guidelines for the Future*. Boston, Mass.: Center for Criminal Justice, 1973.

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

Related Standards

The following standards may be applicable in implementing Standard 15.6:

15.3 Family Court Prosecution Services—Selection Criteria
15.4 Family Court Prosecution Services—Separate and Adequate Staff
15.5 Family Court Prosecution Services—Selection of Staff
15.8 The Role of Family Court Prosecutor
15.11 Leadership Responsibility of Family Court Prosecutor
15.12 Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System

Standard 15.7

Presence of the Family Court Prosecutor at Family Court Proceedings

As attorney for the State, the Family Court Prosecutor may participate in every proceeding of every case that is subject to the jurisdiction of the family court and in which the State has an interest. Family court prosecutors should participate in all contested delinquency cases. In uncontested delinquency cases and other matters, they may determine when to appear. However, the family court, in exercising its discretion, may order the prosecutor to participate in any case or proceeding.

Commentary

For many years the interests of the State in juvenile proceedings were represented by a probation officer, social worker, police officer, or private citizen presenting evidence on a petition, rather than by an attorney for the State. Until recently, appearances by *any* attorney, whether prosecution or defense, were infrequent in the juvenile court. The proceedings, for better or worse, were informal in nature. The juvenile court was not considered a formal court of criminal law in which the State presented its evidence against the defendant, who, if adjudicated guilty, might be sentenced to a term in prison. Rather, the juvenile court was viewed as an institution to aid a juvenile whose conduct or circumstances indicated a need for external intervention.

A finding by a juvenile court judge that a juvenile had committed acts or engaged in conduct the State considered inappropriate was not an adjudication of guilt. Rather, such a finding resulted in a declaration of status—i.e., that the child was delinquent or in need of supervision. This difference in terminology had more social significance earlier in the 20th century than today but still indicates that the philosophy and purpose of the juvenile court are different from those of the adult criminal court.

In an effort to accommodate the beneficent tone of the juvenile court and to project an image different from the penal atmosphere of adult criminal proceedings, juvenile courts gradually assumed an informal atmosphere. The judge, rather than being an impartial arbitrator between two adversaries, became the representative of all parties with an interest in the proceeding. It was the judge's responsibility to determine the best interest of both the State and the juvenile and to reconcile any differences between the two parties. In doing so, the judge exercised a great amount of discretion in determining what was in the best interests of the juvenile.

There was one serious disadvantage in the informality of this system. If the juvenile court judge acted arbitrarily, neither counsel for the juvenile nor for the State were present to exercise a restraining influence. Also, the absence of a formal record of the proceedings rendered appellate review virtally impossible. In the 1960's, aggrieved youths attacked this system on the grounds that it did not comport with the fundamental fairness required by the due process clause of the 14th admendment.

The leading case in this area is also the one most germane to a discussion of the role of the attorney representing the State's interests in the juvenile court. That case is *In re Gault*, 387 U.S. 1 (1967). In that decision, the Supreme Court declared that youths have a right to counsel appointed to represent them if they are indigent, and they must be advised of this right. The informal nature of juvenile court proceedings was necessarily altered by this decision. No longer could an adjudicatory proceeding in the juvenile court be considered strictly nonadversarial. The youthful respondent was now entitled to vigorous representation by an attorney. However, many States were slow to abandon the informal, nonadversarial nature of their juvenile court proceedings. Some States made no provision for representation of their interests in this court. Others limited the appearance of an attorney to situations in which the juvenile court judge requested that presence. The result of this has been a lack of vigorous, effective representation of the State's interests in the many juvenile courts.

Until recently, in many States there were either no statutory provisions for a prosecuting attorney in juvenile court proceedings, or such attorneys simply did not appear. With the advent of counsel for the youth, this situation is changing, and wide-spread statutory revisions may require a juvenile prosecutor who will assume an active role in all phases of the juvenile justice system.

Many States, notably Alabama, Minnesota, Virginia, and Wisconsin, make provision for a prosecutor in juvenile court, and limit the appearance to the request of the juvenile court judge. Other States allow prosecutors in juvenile court only when the youth is represented by counsel.

A survey of 68 major cities conducted by the Center for Criminal Justice, Boston University School of Law, made the following findings:

- In 38.2 percent of the cities surveyed, public prosecutors represented the State at detention hearings. They were authorized to file petitions in 11.8 percent of those, and in 22.1 percent, they prepared the petitions. In 36.8 percent, prosecutors reviewed the petitions for legal sufficiency, and signed them in 8.8 percent.
- In 76.5 percent, prosecutors represented the State at pretrial motions, in 73.5 percent at probable cause hearings, and in 45.6 percent they conducted the pretrial negotiations for the State.
- In 47.1 percent, the prosecutor could request that a juvenile be bound over; in 76.5 percent that prosecutor represented the State at bind-over hearings. That individual had authority to request a physical or mental examination of the juvenile in 2.9 percent of those cities.
- In 22.1 percent, prosecutors had authority to amend a filed petition; in 44.1 percent they could move for dismissal of a filed petition. And prosecutors in 72.1 percent of those cities represented the petitioner at adjudication hearings; in 48.5 percent they represented the petitioner at disposition.
- Additionally, in 67.6 percent, prosecutors conducted the examination of witnesses. In 8.8 percent they recommended disposition of the juvenile; in 69.1 percent they represented the petitioner on appeal; in 72.1 represented the State in habeas corpus proceedings; and in 30.9 percent presented the case on alleged probation violations.

Where these functions were not performed by the prosecutor, they were performed at various times by clerks, nonattorney prosecutors, probation officers, or judges.

The President's Commission on Law Enforcement and Administration of Justice discouraged the use of a public prosecutor in juvenile court on the asserted basis that it would be too great a departure from the spirit of the court. The Commission opted for the use of a government attorney who has primarily civil duties, such as a corporation counsel or an attorney representing the welfare department. However, this position was taken at the threshold of a revolution in the juvenile court ushered in by the *Gault* decision. In light of the trend toward greater formality and expansion of due process rights in the context of the juvenile court, it is doubtful that a similar commission would take the same position today.

The same may be said for others who took the position that the prosecutor in juvenile court should function as something less than an advocate. One commentator, writing before the full impact of *Gault* was felt, suggested the prosecutor merely "assist the court to obtain a disposition of the case which is in the best interest of the child." (Whitlatch, "The *Gault* Decision: Its Effect on the Office of the Prosecuting Attorney, 41 Ohio Bar J, 41, 1968.") However, present social conditions and the contemporary view of the juvenile court make this approach anarchronistic. For one thing, such a view would focus only on the rehabilitative role of the juvenile court as a social institution, and would not adequately address the need to have affirmative representation of the community in the proceedings. By contrast, the presence of an attorney representing the State would not meet that requirement.

The need for prosecuting attorneys in juvenile courts has been frequently cited. In the *Matter of Lang* (44 Misc. 2d 900, 255 N.Y.S. 2d 987 (Family Ct., 1965)), for example, it was noted that a prosecuting attorney was needed not only to present evidence, but also to preserve the objective role of the juvenile judge; this statement was made in response to the establishment of the Law Guardian in the New York Family Court Act (1963). A survey of juvenile court judges in the 100 largest cities in the country found that most favored an active prosecuting attorney "to maintain adversary balance in their courts." (*Prosecution in the Juvenile Courts: Guidelines for the Future*, Center for Criminal Justice, Boston University School of Law, 1973, p. XVI.)

Many individuals believe that the participation of a prosecuting attorney in juvenile cases would destroy the informality of the proceedings, but it is doubtful that this would be a serious loss. Greater formality in the proceedings might be beneficial to rehabilitation and could impress upon the juvenile the seriousness of the proceeding. The presence of a prosecutor also would eliminate the conflict in roles for the judge, the probation officer, the police officer, and the youth's attorney.

The prosecutor could expedite juvenile proceedings through careful investigation and marshaling of evidence, and also could encourage the accuracy of probation and other reports through the use of timely and effective challenges, when deemed necessary. Furthermore, the presence of a skilled professional prosecutor would compel defense attorneys to upgrade the representation of their clients.

Family court prosecutors should appear in all delinquency cases where the facts of the petition are disputed. They also may decide to appear in all other family court proceedings in which the State has an interest, including those involving uncontested delinquency proceedings, paternity, adoption, Endangered Child, and Families With Service Needs.

References

1. Boston University, School of Law, Center for Criminal Justice. *Prosecution in the Juvenile Courts: Guidelines for the Future*. Boston, Mass.: Center for Criminal Justice, 1967.

2. California Welfare and Institutions Code, Section 681 (West 1972).

3. Clayton. "Emerging Patterns in the Administration of Juvenile Justice." *Journal of Urban Law*. Vol. 49, 1971.

4. Code of Alabama Title 13, Section 359 (1958).

5. Code of Virginia, Section 16.1–155 (1950) (Repl. Vol. 1960).

6. Fox. "Prosecutors in the Juvenile Court: A Statutory Prosecutor." *Harvard Journal of Legislation*, Vol. 8 (1970).

7. *In re Gault*, 387 U.S. 1 (1967).

8. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976.)

9. Manak, James P. "The Right to Jury Trial in Juvenile Court: A Proposal for the Court, the Juvenile and Society." *The Prosecutor*. Vol. 4 (1968).

10. *Matter of Lang*, 44 Misc. 2d 900, 255 N.Y.S. 2d 987 (Family Court, 1965).

11. Minnesota Juvenile Court Rules, Rule 5.2.

12. Minnesota Statutes Annotated, Sections 260 & 155. (1971).

13. National Council on Crime and Delinquency. *Model Rules for Juvenile Courts*. New Jersey: National Council on Crime and Delinquency, 1969.

14. Ohio Revised Code Annotated. Section 2151.40 (Baldwin 1973).

15. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

16. Skoler. "Counsel in the Juvenile Court Proceedings," *Journal of Family Law*, Vol. 8 (1968).

17. Whitlatch. "The Gault Decision: Its Effect on the Office of the Prosecuting Attorney," *Ohio Bar Journal*, Vol. 41 (1968).

18. Wisconsin Statutes Annotated, Section 48.04 (1957).

Related Standards

The following standards may be applicable in implementing Standard 15.7:

8.2	Family Court Structure
12.3	Court Proceedings Before Adjudication in Delinquency Cases
12.11	Detention Hearings
13.4	Contested Adjudications
14.7	Formal Dispositional Hearing
15.8	The Role of Family Court Prosecutor
15.9	Conflicts of Interest
15.19	Dispositions—Requirement of Taking an Active Role

Standard 15.8

The Role of Family Court Prosecutor

The primary duty of the family court prosecutor is to seek justice by fully and faithfully representing the State's interests without losing sight of the philosophy and purpose of the family court. The family court prosecutor shall function as an adversary, but shall avoid the typical role of an adult crime prosecutor.

Commentary

The family court prosecutor shall assume the role of an advocate, viewing the State's interests as paramount while also considering the best interests of the youth.

These two principles may appear contradictory. The State's interests vary throughout the various stages of proceedings in the family court, so that the vigor with which family court prosecutors assert their adversarial roles also will vary. However, the important factor is that family court prosecutors not pattern their conduct on that of traditional criminal prosecutors.

For example, at the intake stage, the role of the family court prosecutor is initially limited to advising the intake officer on the legal sufficiency of a complaint, although the prosecutor also will make the final decision on whether or not a petition is filed. In making that decision, the family court prosecutor should develop a consistent policy so that youths in similar circumstances receive similar consideration. These standards specifically provide, for instance, that the family court prosecutor shall not engage in plea discussions, nor enter into plea agreements with juveniles or their attorneys. A youth must admit the allegations in a petition with no concessions by the family court prosecutor as to the charge or disposition.

It is at the adjudicatory stage of the family court proceedings that the adversity of interests between the juvenile and the State may be greatest. Here, the family court prosecutor may assume an adversary role, so long as it does not encompass the traditional stance of a criminal prosecutor. The prosecutor will present the evidence for the State in support of the petition, and will vigorously cross-examine all witnesses whom the juvenile presents to the court.

This stage of family court proceedings is most akin to a criminal trial, and the ABA *Standards for Criminal Justice, The Prosecution Function,* approved in 1971, can offer further guidance in defining the role of family court prosecutors and their relationships with others in the juvenile justice system. However, in using the ABA standards as a guide, family court prosecutors must take care not to assume the traditional criminal adversary role.

The adversity of interests in the dispositional phase need not be as sharp as that in the adjudicatory phase. Standard 15.19 requires the family court prosecutor to participate in the disposition hearing to assure that the State's interests are fully represented. However, flexibility is advisable in this posture. A range of dispositional alternatives may adequately protect the safety and welfare of the community, but some of these alternatives may be better suited to a youth's needs than others.

Further oportunities for reconciling what may appear to be the conflicting interests of the juvenile and the State occur in the area of subsequent litigation. Thus, when youths petition family courts for change in the dispositions to which they are subject, family court prosecutors should not automatically oppose those petitions. They should carefully study the matter; if they decide that the State's interests will not be compromised and that the modification sought will better suit the juvenile's needs, the prosecutors may even join the youths in seeking modification, or may decide not to oppose it. If, however, the prosecutors believe that the interests of the State would be compromised by the proposed modification, they should oppose it. When the latter situation occurs, it will be the family court's duty to resolve the conflict in an adversary hearing.

It would be less than honest to maintain that there is no philosophical conflict between the ideas that family court prosecutors should represent the State's interests and also should provide for the best interests of the youth. However, it is useful to remember that prosecutors in the adult criminal justice system also must cope with a seeming conflict in their roles. They are advocates operating within an adversary system, but also are obliged to protect the innocent as well as convict the guilty.

To effect a reconciliation between these two obligations, prosecutors in the criminal justice system exercise a substantial amount of discretion, a function that family court prosecutors must also assume.

References

1. American Bar Association, *Code of Professional Responsibility*, Ethical Consideration 7–13.

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft no. 6; April 1976).

3. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice, *Standards Relating to the Prosecution Function and the Defense Function* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

Related Standards

The following standards may be applicable in implementing Standard 15.8:

8.2	Family Court Structure
13.1	Plea Negotiations Prohibited
13.4	Contested Adjudications
14.1	Purpose of Dispositions
15.9	Conflicts of Interest
15.10	Public Statements of Family Court Prosecutor
15.11	Leadership Responsibility of Family Court Prosecutor
15.12	Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System
15.13	Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings
15.16	Dismissal of a Petition Upon a Subsequent Finding of Lack of Legal Sufficiency
15.17	Disclosure of Evidence Favorable to Juvenile
15.18	Family Court Prosecutor's Role in Plea Negotiations
15.19	Dispositions—Requirement of Taking an Active Role
28.2	Access to Juvenile Records

Standard 15.9

Conflicts of Interest

Family court prosecutors should avoid the appearance or reality of a conflict of interest with respect to their official duties. In some instances failure to do so will constitute unprofessional conduct.

Commentary

This standard has been drawn largely from the ABA's *Standards for Criminal Justice, The Prosecution Function.* § 1.2 (Approved Draft, 1971). Its purpose is to emphasize the importance of maintaining both the reality and the appearance of absolute integrity in the family court prosecutor's service, in order to preserve the public trust. When it appears that a conflict of interest may arise in a given case, the family court prosecutor should immediately withdraw from the case and arrange for the case to be handled by other counsel. A statewide organization of family court prosecutors could be consulted for guidance when such a situation arises. Also, a local association of all attorneys handling matters of juvenile law (both prosecution and defense) could be established to provide guidance on juvenile law matters, including advice on alternative arrangements for handling a case where a conflict of interest is involved.

It should be noted that not only the reality but also the appearance of a conflict of interest is significant. Both participants in and observers of the juvenile justice system rarely have an opportunity to learn the facts in situations where there is a seeming conflict or other impropriety on the part of counsel. As a result, their impression of the system as a whole may be adversely and inaccurately affected. If contact with the system is limited, this impression may well be permanent. Thus the mere appearance of an impropriety may, in a limited sense at least, undermine public confidence in the system of justice.

The ABA's Standards for Criminal Justice lists three typical examples of possible conflicts of interest for public prosecutors; these situations are equally applicable to the family court prosecutors:

1. When a law partner or other lawyer professionally associated with the prosecutor or a relative of the prosecution appears as counsel for a defendant;

2. When a prosecutor's business partner, business associate, or relative has any interest in a case, either as a complaining witness, a party, or counsel; and

3. When a prosecutor's former client or law associate is a defendant.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft no. 6; April 1976).

2. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to the Prosecution Function and the Defense Function* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

Related Standards

The following standards may be applicable in implementing Standard 15.9:

15.8 The Role of Family Court Prosecutor

15.10 Public Statements of Family Court Prosecutor

15.12 Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System

Standard 15.10

Public Statements of Family Court Prosecutor

The family court prosecutor should avoid exploiting his office by means of personal publicity connected with a case before, during, or after trial.

Commentary

This standard also was drawn substantially from the ABA's *Standards for Criminal Justice, The Prosecution Function,* section 1.3 (Approved Draft, 1971). The rationale of the commentary to the adult standard is at least equally compelling when the subject of prospective prosecution is a juvenile; thus, its most important points will be highlighted here.

The family court prosecutors' responsibilities to the administration of juvenile justice require that they do nothing that would impair the rights of the respondent to fair and impartial treatment in every case. Their primary duty is to fully and faithfully represent the public safety interest without losing sight of the philosophy and purpose of the family court in insuring the best interests of the youth. Thus, the family court prosecutors should not exploit the power or prestige of their office for purposes of personal aggrandizement. While they must be responsive to the public interest, they also should maintain an independent judgment of what such interest entails and avoid merely reacting to prominent expressions of such interest. The very nature of their function as administrators of justice and the nature of the family court require that the prosecutors scrupulously avoid personal publicity in connection with the cases that they handle.

Because most of the family court actions in which the prosecutors are likely to participate are not of an interest-arousing nature, it is expected that they will have little contact with the press concerning actions pending in the family court. In rare situations in which legitimate public interest is stimulated, prosecutors should strive to satisfy this interest without prejudicing the rights of the participants to a fair trial. Compliance with the ABA's *Standards for Criminal Justice, Fair Trial and Free Press* (Approved Draft, 1968), should be considered mandatory. Also, these standards posit the ideal of a career family court prosecutor, who should not feel the need for publicity.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

2. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Free Trial and Free Press* (Approved Draft, 1968). New York: Institute of Judicial Administration, 1968.

3. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to the Prosecution Function and the Defense Function* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

Related Standards

The following standards may be applicable in implementing Standard 15.10:

15.8 The Role of Family Court Prosecutor
15.9 Conflicts of Interest

Standard 15.11

Leadership Responsibility of Family Court Prosecutor

The family court prosecutor should take an active community role in preventing delinquency and protecting the rights of young people, and should work to help others initiate and improve existing programs designed to prevent delinquency.

Commentary

Family court prosecutors are the community representatives in family court proceedings, but their duties should not be viewed as limited to the courtroom. They should seek to prevent delinquency in addition to processing those young people who enter the formal adjudicative process. Prosecutors have an obligation to see that justice is done, and that individuals receive fair treatment and due process. They must insure that the law is just and that the dispositional alternatives available to the family court are viable. Although the formal adjudicative processes of that court necessarily have low visibility in the community, this need not be true for participants in the process.

The presence of the family court prosecutor in the community can result in community support and confidence in the court as an institution. Accordingly, it is appropriate and desirable for the family court prosecutor to participate in programs of public education and legislative reform.

One avenue for family court prosecutors to pursue in encouraging public support for and interest in the juvenile justice system is that of publishing information on their role and that of the family court. This information could be included in low-cost pamphlets distributed throughout the community. Another publicity device could be public speaking engagements by the prosecutors or their assistants before community groups. Offices of sufficient size may wish to consider the establishment of a speakers bureau for this purpose. At any rate, providing information to the public serves a useful function in dispelling false notions or stereotypes about the juvenile justice system in general.

Reference

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft no. 6; April 1976).

Related Standards

The following standards may be applicable in implementing Standard 15.11:

15.12 Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System

18.5 The Leadership Role of the Family Court Judge

25.3 Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation

26.1 Analyze the Present Situation

26.2 Develop Goals

26.3 Developing Problem Statements

26.4 Program Development

26.5 Program Implementation

Standard 15.12

Relationships of Family Court Prosecutor With Other Participants in the Juvenile Justice System

With Counsel for the Youth and with the Court

An atmosphere of detachment between the family court prosecutor and counsel for the youth and with the court should be maintained at all times. The appearance as well as reality of collusion should be zealously avoided.

With Prospective Nonexpert Witnesses

The family court prosecutor must not compensate a nonexpert witness. He may, however, request permission from the family court to reimburse a nonexpert witness for the reasonable expenses of attending court, including transportation and loss of income.

In interviewing an adult prospective witness, it is proper but not mandatory for the family court prosecutor or his investigator to caution the witness concerning possible self-incrimination and his possible need for counsel. However, if the prospective witness is a juvenile, such cautions are mandatory and should be extended in the presence of the juvenile's parents or guardian. Where a parent or guardian is not available, the family court may, in the exercise of its discretion, appoint a guardian ad litem or independent counsel for the juvenile witness to be present at the giving of such cautions (see Standard 16.1, Juvenile's Right to Counsel).

With Expert Witnesses

A family court prosecutor who engages an expert for an opinion should respect the independence of the expert's opinion on the subject. To the extent necessary, the prosecutors should explain to the expert his role as an impartial expert called to aid the fact finder, and the manner in which witnesses are examined.

The family court prosecutor must not pay an excessive witness fee to influence the expert's testimony or make the fee contingent upon the testimony the witness will give or the case results.

With the Police

There should be at all times an atmosphere of mutual respect and cooperation between the family court prosecutor's office and the police. The family court prosecutor should strive to establish an effective line of communication with the police.

The family court prosecutor should provide legal advice to police concerning functions and duties in juvenile matters and cooperate with police in providing services of the prosecutor's staff to aid in training them on their duties in juvenile matters.

With Intake Officers, Probation Officers and Social Workers

An atmosphere of mutual respect and trust should exist between the family court prosecutor and intake officers, probation officers, and social workers. The prosecutor should be available to advise those individuals as to their functions.

Commentary

One of the most obvious features of the juvenile justice system today is the tendency of the adjudicatory phase to assume the attributes of an adversary proceeding. *McKeiver* v. *Pennsylvania,* 403 U.S. 528 (1971) holds that the States are not required to provide jury trials at the adjudicatory stage of juvenile court proceedings, but this holding does not detract from the fact that juvenile proceedings are becoming increasingly adversary in nature. The standards in this chapter accept this development as an established fact, one that necessarily affects the relationship the family court prosecutor establishes and maintains with various other participants in the system.

There is in fact an organized trend away from the juvenile court as the kind of informal social agency it has been in the past, toward an institution similar to the adult criminal court. Undoubtedly this development has been stimulated in large part by a basically unstructured extension of procedural rights for juveniles by the courts.

To correspond with this change, the family court prosecutor's role understandably becomes more analogous to that of the prosecutor in the adult criminal court. This increasing similarity is demonstrated by the discretion vested in the prosecutor to determine whether a child of a particular age who has committed a delinquent act shall be prosecuted in the juvenile or criminal court. In a recent Nebraska case involving a 15-year-old boy convicted in a criminal court of first-degree murder, the court upheld the constitutionality of that discretionary power. *State* v. *Grayer,* 191 Neb. 523, 215 N.W. 2d 859 (1974). The *Grayer* decision demonstrates the inexorable judicial movement to pattern juvenile procedures after the adult procedural model.

As the adjudicatory phase assumes the characteristics of an adversary proceeding, the relationships of the family court prosecutor with other participants in the juvenile justice system necessarily become more formal. Formality will exist not only in this phase, but throughout the entire system. To emphasize this fact, following is a partial catalog of recommended relationships that a family court prosecutor should have with other participants in the juvenile justice system. These recommendations track in large measure the relationships recommended by the ABA for the prosecutor in the adult field.

Relationship With Counsel for the Youth

The standard proposed for this relationship is a logical outgrowth of the proposition that the adjudicatory phase of the juvenile justice system is adversary in nature. If youths are to believe in the reality of fair treatment, they must see it put into practice—e.g., in the form of a counsel for youth who is truly independent of the family court prosecutor.

A detached relationship is needed between the family court prosecutor and a youth's attorney. However, this relationship should not be so strained that the two attorneys lack respect for each other or fail to communicate on matters of common interest. Nevertheless, the relationship should be sufficiently detached so youths know that their attorneys are representing them zealously within the bounds of the law, and that the family court prosecutor is representing the best interests of the State.

Family court prosecutors also may represent the State's interests in other types of proceedings in family court (e.g., Endangered Child, or intrafamily criminal offenses). If so, their relationship with counsel for other respondents should be identical with that proposed here in terms of counsel for the youth.

Relationship With the Court

Much of what has already been said also is applicable to the relationship between the family court prosecutor and the family court. With the increased formality of juvenile and family court proceedings, there must be a recognition of the proper relationship between the courts and the family court prosecutors.

As court officers performing their duties, family court prosecutors will become well acquainted with all the family court judges in their jurisdictions. They will, in fact, work with those judges to accomplish the goals of the juvenile justice system. Nevertheless, the prosecutors must guard against the possibility that they may be viewed by the community as being associates of the family court judges. Such a community perception would weaken the effectiveness of both the prosecutor and the court.

Both inside and outside the courtroom, an atmosphere of detachment should be maintained between family court prosecutors and judges. Of course, this atmosphere is not meant to be so stifling that the two parties are prevented from speaking to each other outside of the courtroom. In essence, the correct relationship is the same as that proposed for the prosecutor and the court in the larger criminal justice system; thus, the ABA's *Standards Relating to the Prosecution Function*, section 2.8 (Approved Draft, 1971), and the commentary thereafter, may be considered equally applicable to the family court prosecutor.

Relationship With Prospective Nonexpert Witnesses

This standard has been drawn in part from the ABA's *Standards Relating to the Prosecution Function*, section 3.2 (Approved Draft, 1971). That standard recognizes that if witnesses are compensated by the parties for their testimony, there may be subornation of perjury, or at least the appearance of it.

The ABA standard does not, however, preclude the payment of ordinary witness fees, nor reimbursement for actual expenses and loss of income. An important caveat, however, is that there must be no attempt to conceal reimbursement of witness expenses. Since the duty of the family court prosecutor includes some solicitude for the best interests of the youth, compliance with this standard is even more compelling than for the prosecutor of adult crimes.

In many cases, it can be expected that prospective witnesses will be young persons. In such situations, the family court prosecutor should caution these witnesses as to the possibility of self-incrimination and the need for counsel. This difference in treatment is necessary because of the presumed lesser sophistication of youths in being able to recognize the possibility that their testimony ultimately may be damaging to their own interests.

In many cases, the proper exercise of prosecutorial discretion will include a request by the family court prosecutor that the court appoint a guardian ad litem or independent counsel for a youthful witness. This, however, would be discretionary with the family court.

Relationship With Expert Witnesses

This standard also has been drawn from the ABA's *Standards Relating to the Prosecution Function*, section 3.3 (Approved Draft, 1971). It has been included here to emphasize the need to preserve the integrity of family court proceedings.

The goal of the juvenile justice system is to insure the best interests of the youth, consistent with the public interest as it appears in a given case. To accomplish this goal, it is necessary to assure that the views of the experts are their own, truly independent, and have not been influenced by the family court prosecutor. Thus, attempts by that prosecutor to sway expert opinions are absolutely proscribed.

This standard also is designed to regulate the manner in which family court prosecutors may compensate expert witnesses for their expenses and the income they may forgo by testifying in family court. The size of the witness fee should in no way be contingent on the testimony an expert gives at trial. Additionally, the fee itself should not be excessively high, and it should conform to the expert's customary method of compensation (e.g., per hour, per diem, flat fee).

The point here is that the fee should not operate as an inducement for expert testimony, since that conduct is proscribed by the ABA's *Code of Professional Responsibility*, DR 7–109(c)(3).

In addition, both the size of the fee and the method of its calculation should be disclosed to the family court and to counsel for the youth, so there will be no question that the requirements of the standard have been met.

Relationship With the Police

Cooperation between the family court prosecutor, the investigation office, and the police will aid in both case investigation and disposition. In order for staff members of the family court prosecutor's office to appreciate the way police investigate and informally dispose of cases through stationhouse adjustments, those staff people should participate in police training, especially as it relates to police contact with young people.

Family court prosecutors should keep police agencies in their jurisdictions informed of changes in the law that may affect police methods of handling young people. Such action will help insure that young people are accorded their legal rights, and also will help prevent the loss of cases because those rights are deprived.

Traditionally, the adult crime prosecutor has acted as legal advisor to the police and has been a major source of programs and staff for police training programs. Nowhere in the American justice system is this kind of role more critical than in juvenile matters today, where the substantive and procedural rights of juveniles have undergone such dramatic change and development in the last several years.

The ABA *Standards Relating to the Prosecution Function*, section 2.7 (Approved Draft, 1971) deals with the relationship between the adult crime prosecutor and the police; these standards may be consulted for further guidance and application to the juvenile area.

Finally, appointment of a police liaison officer should be seriously considered by those jurisdictions large enough to use such an official effectively. The use of such an officer will greatly enhance the coordination of mutual efforts by the two agencies.

Relationship With Intake Officers, Probation Officers, and Social Workers

Standard 15.8 requires that family court prosecutors advise intake officers of the appropriate State agencies on the legal sufficiency of delinquency petitions. Thus, the prosecutors obviously must work closely with the intake function to carry out their duties at that point in the process. An atmosphere of mutual respect and trust simply makes the jobs of both prosecution and intake easier.

Standard 15.19, Dispositions—Requirement of Taking an Active Role, encourages family court prosecutors to monitor the success of various disposition alternatives utilized in their jurisdictions. One way to carry out this activity is to seek the opinions of probation officers and social workers on these subjects. Both of these groups will ordinarily be more familiar with the success of various dispositional alternatives than would the family court prosecutor. These groups also may help family court prosecutors decide which disposition to recommend to the family court after an adjudication of delinquency has occurred. Thus, prosecutors should endeavor to establish an atmosphere of mutual respect and trust with those groups.

Family court prosecutors also should render advice to probation officers and social workers. Such advice may take the form of responding to questions about certain acts by a youth as possible violations of probation. Prosecutors could advise probation officers in particular of the extent, consistent with their discretion, that they will insist on literal compliance with the terms of juvenile probation officers.

References

1. American Bar Association *Code of Professional Responsibility.*

2. American Bar Association, Committee on Professional Ethics. *Informal Opinions* No. 847 (1965).

3. *In re Gault*, 387 U.S. 1 (1967).

4. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function* (James P. Manak, reporter; Working Draft No. 6; April 1976).

5. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to the Prosecution Function and the Defense Function* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

6. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Trial by Jury.* (Approved Draft 1968). New York: Institute of Judicial Administration, 1968.

7. *McKeiver* v. *Pennsylvania*, 403 U.S. 538 (1971).

8. Rubin, Ted. "How to Make Criminal Courts More Like the Juvenile Courts," *Santa Clara Lawyer*, Vol. 13 (1972).

9. *State* v. *Grayer*, 191 Neb. 523, 215 N.W. 2d 859 (1974).

Related Standards

The following standards may be applicable in implementing Standard 15.12:

2.2 Office of Delinquency Prevention Planning
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
12.1 Case Processing Time Frames
12.5 Petition and Summons
13.1 Plea Negotiations Prohibited
15.9 Conflicts of Interest
15.11 Leadership Responsibility of Family Court Prosecutor
16.2 The Role of Counsel in the Family Court
19.8 Duties of the State Agency—General

Standard 15.13

Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings

Family court prosecutors should be available to advise intake officers of the appropriate State agencies to whether the facts alleged by a complainant are legally sufficient to file a petition of delinquency.

All petitions should be prepared, signed, and filed by the family court prosecutor. Filing should be done as expeditiously as possible. Where a juvenile is in custody, the petition should be filed within 48 hours of the initiation of custody.

Upon receiving a complainant's request for review, the Family Court Prosecutor should consider the facts presented by the complainant, consult with the intake officer who made the initial decision, and make a determination as to whether a petition should be filed. In the event that a petition is not filed by the family court prosecutor, any aggrieved party may ask that family court proceedings be initiated by a verified petition to the court.

Commentary

The primary thrust of the preadjudication phase of family court proceedings involves two distinct agencies of government: intake and prosecution, both of which are executive branch agencies.

The primary issue is basically one of responsibility for making the final decision as to whether a petition shall be filed seeking adjudication in family court, or whether the juvenile shall be diverted from the formal adjudicatory process. Related issues include the ultimate responsibility for simply taking no action on a complaint and the question of who may withdraw a petition once it has been filed.

In making this decision, the choices include (1) vesting responsibility in an intake function not related to the family court prosecutor (such as a probation department, various social service agencies, an intake arm of the family court, etc.), or (2) vesting the function in the family court prosecutor.

If the latter choice is made, the procedural aspects of the process (interviewing, taking statements, checking records, etc.) could be carried out by an intake agency independent of the family court prosecutor, while the latter retains the ultimate responsibility for activities such as preparing, signing, filing, amending, and/or moving to withdraw the petition.

On the question of who is to perform the procedural aspects of intake, these standards create an intake agency separate from the court, the family court prosecutor, and existing probation agencies. This agency is to be an executive branch created and staffed specifically for the purpose of intake.

On the vital question of responsibility, the standards mandate a middle ground between exclusive decisionmaking authority lodged either in the intake agency or with the family court prosecutor. In this standard there are two levels of intake. The initial decision is made by an intake officer, while the final decision is made by the family court prosecutor.

Initial intake is performed by the intake officer of an appropriate State agency. This officer makes a preliminary determination as to whether the facts alleged by a complainant are legally sufficient to warrant the filing of a petition. The role of the family court prosecutor at this stage of intake is limited to advising the intake officer on the legal sufficiency of the facts alleged.

The term "legal sufficiency" involves a two-pronged test: (1) whether the facts and alleged events are sufficient to establish the court's jurisdiction over the youth, and (2) whether the competent and credible evidence available is sufficient to support the petition. The first part of the test is concerned with such matters as the age of the juvenile, and the nature of the juvenile's alleged conduct. The second part of the test is essentially equivalent to a determination of probable cause. Both parts should be met before a petition is filed.

An intake officer who decides that the facts are sufficient to file a petition, may recommend that the family court prosecutor do so. The officer should also notify the complainant, the juvenile, and the parents or legal guardians to that effect.

An intake officer may find that the facts in a case are legally sufficient to file a petition, but also may decide that the interests of the juvenile and of the State can be served by providing the youth with voluntary care or treatment. The intake officer may then refer the youth for such care or treatment, provided the family court prosecutor does not exercise the right to file a petition independently.

The intake officer who declines to request that a petition be filed should notify the complainant of that action and the reasons therefore. The officer also should advise the complainant of the right to obtain a review of this decision by the family court prosecutor.

Upon receiving a request for review, the family court prosecutor should consider the facts presented by the complainant, consult with the intake officer who made the initial decision, then make a decision as to whether or not a petition should be filed. Even if the complainant does not request a review, the family court prosecutor will be notified by the intake officer of the latter's negative decision, and may still exercise the right to prepare and file a petition.

Under the procedure chosen by the standard, therefore, the intake officer makes an initial investigation to determine whether or not a child is a proper subject for family court jurisdiction. This investigation, however, will not preclude the family court prosecutor from making an independent investigation of the facts. Although the intake officer makes a recommendation to the prosecutor to file a petition, the latter must make the final decision. Therefore, the prosecutor should have the authority for an independent examination of the facts.

In the more serious cases, family court prosecutors would have the responsibility to decide whether or not to seek a transfer to the criminal court. Thus the prosecutor should be capable of investigating the desirability of such action.

Where the investigation indicates that the nature of the conduct alleged and the youth's particular circumstances so warrant, the family court prosecutor should transfer the case to the intake office for an informal disposition, assuming also that the public interest is not compromised. The standards in this chapter strongly encourage the use of this alternative, because it avoids the stigma of official action by the family court when such action is not necessary to further the goals of rehabilitation and the public interest.

On the other hand, if the family court prosecutor believes that the public interest would be sacrificed by an informal disposition at the intake stage, and if legal sufficiency exists, the prosecutor promptly should file a petition with the family court to initiate the formal adjudicative process. If the juvenile is in custody, the petition must be filed within 48 hours of the initiation of custody. This action would still leave open the option of moving for a dismissal of all or part of the petition at a later time.

In some jurisdictions intake officers are not statutorily authorized to file petitions, and their determination to do so must be reviewed by the prosecutor. In other jurisdictions, intake officers are statutorily authorized to file petitions, and cannot be overruled by the prosecutor. This report concludes that an intake officer's determination to file a petition should be subject to review by the prosecuting attorney, who should make the final decision on whether or not to file.

Statutory provisions also differ with respect to the authority of a complainant to file a delinquency petition or obtain review of an intake officer's dispositional decision. There are only a few jurisdictions in which a complainant has an absolute right to file a petition. In most jurisdictions a complainant is not statutorily authorized to do so and cannot overrule an intake officer's decision not to file or not to recommend the filing of a petition. However, the complainant can obtain prosecutorial or judicial review of that decision. This is the preferable procedure, which also prevents the complainant from filing a groundless or ill-advised petition that the family court prosecutor later might determine cannot be legally sustained.

There may be instances where the family court prosecutor persistently and/or unreasonably refuses to file a petition and the complainant feels very strongly that family court proceedings should be initiated. This standard allows an aggrieved party direct access to the family court in this kind of situation. Examples of an aggrieved party may be a juvenile's parents, a complaining witness, or a victim. To avoid vexatious complaints, a private request for family court proceedings must be made by verified petition.

This standard requires the family court prosecutor to exercise a great deal of discretion in deciding on the appropriateness of filing petitions. Chief among the decisions the family court prosecutor must make is that of determining the State's interest in choosing the formal adjudicative process, rather than an informal disposition. These standards do not define State's interest because that is largely indefinable and its definition should be part of the prosecutor's traditional discretion. Such discretion flows from the quasi-judicial role of the prosecutor in the American judicial system, a role recently enhanced by the U.S. Supreme Court in *Imbler* v. *Pachtman*. There the Court ruled that prosecutors enjoy absolute immunity in civil rights litigation (18 U.S.C., § 1983) for duties performed within the scope of their traditional prosecutorial roles.

In this role of quasi-judicial minister of justice, the American prosecutor exercises a vast amount of discretion, which derives from the common law rather than statutes. Underlying this immunity is a recognition of the need for leniency in particular cases and a flexible procedure to achieve that end.

Implicit in the attitude of the courts is a basic recognition that the nature of the decision to process criminal and juvenile cases requires that the charging process be discretionary with the prosecutor, for the decision to prosecute involves a delicate balancing of myriad subjective and objective factors. As noted by Kadish, "Legal Norm and Discretion in the Police and Sentencing Process," 75 *Harv. L. Rev.* 904, at 913 (1969): "[D]iscretionary judgment is the product of the inevitable need for mediation between generally formulated laws and the human values contained in the varieties of particular circumstances in which the law is technically violated." Thus the decision of a family court prosecutor to file or not to file, and the bases for that decision, should not subject the prosecutor to any liability.

References

1. Arizona Revised Statutes Annotated, Section 8–233(A)(2) (1974).

2. Baker, "The Prosecuting Attorney: Legal Aspects of the Office." *Journal of Criminal Law and Criminology*, Vol. 26 (1935).

3. California Welfare and Institutions Code, Section 653 (West 1969).

4. Confiscation Cases, 7 Wall. 454 (1868).

5. Davis. *Discretionary Justice*, 1969.

6. *Fay* v. *Miller*, 183 F.2d 986 (D.C. Cir. 1950).

7. *Florida Statutes Annotated*, Section 39.04 (Supp. 1973).

8. Illinois Annotated Statutes, Chapter 37, Section 704–1 (1972).

9. *Imbler* v. *Pachtman*, —— U.S. —— (1976).

10. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Juvenile Probation Function: Intake and Predisposition Investigative Services.* (Josephine Gittler, reporter; unpublished, January 1976).

11. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function.* (James P. Manak, reporter; Working Draft No. 6; April 1976).

12. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to the Prosecution Function and the Defense Function.* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

13. Iowa Code Annotated, Section 232.3 (1969).

14. Kadish. "The Prosecutorial Discretion—A Comment." *Northwest University Law Review*, Vol. 60 (1965).

15. LaFave. "The Prosecutor's Discretion in the United States." *American Journal Comp. Law*, Vol. 18 (1970).

16. Maryland Code Annotated, Section 3–810 (1974).

17. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

18. Pound. "Discretion, Dispensation and Mitigation: The Problem of the Individual Special Case." *New York University Law Review*, Vol. 35 (1960).

19. Sheridan, William H. *United States Children's Bureau, Legislative Guide for Drafting Family and Juvenile Court Acts.*

20. *United States* v. *Brokaw*, 60 F. Supp. 100 (S.D. Ill. 1945).

21. *United States* v. *Thompson*, 251 U.S. 407 (1920).

Related Standards

The following standards may be applicable in implementing Standard 15.13:

15.8 The Role of Family Court Prosecutor
15.14 Form and Content of the Complaint
15.15 Form and Content of Petition Filed With Family Court by Family Court Prosecutor
19.2 Creation of a State Agency for Juvenile Intake and Corrections
21.1 State Agency Responsibility for Intake Services
21.2 Processing Applications for Petitions to the Family Court

Standard 15.14

Form and Content of the Complaint

The intake officer of the appropriate State agency should receive complaints from persons wishing to initiate the intake process. Any complaint that serves as the basis of an intake officer's report to the family court prosecutor requesting the filing of a petition should be in writing. The complaint also should be sworn to and signed by one who has personal knowledge of the facts or is informed of them and believes that they are true.

The complaint should set forth specifically the essential facts describing the juvenile's acts or omissions that form the basis of the complaint. Finally, no petition should be filed by the family court prosecutor unless a complaint has first been filed with the intake agency and appropriate procedures have been followed.

Commentary

Initially, the intake officer of the appropriate State agency should receive information from persons alleging the commission of wrongful acts by juveniles. The intake officer should then make a preliminary determination as to whether the facts alleged by complainant are sufficient to warrant the filing of a petition. The role of the family court prosecutor at this stage of the intake procedure should be limited to advising the intake officer on the legal sufficiency of the facts alleged. (See Commentary to Standard 15.13.)

The family court prosecutor is vitally interested in the procedures employed by the intake officer in terms of collecting of information on the alleged acts, since the intake officer may in due course submit a written report to the prosecutor requesting the filing of a petition. Because the family court prosecutor must prepare and file the petition, the basis for the allegations must be reliable. This is assured by requiring that any complaint which will serve as the basis for filing a petition shall be sworn to and signed by an individual having personal knowledge of the facts, or one who is informed of them and believes they are true. Such a complaint should be in writing and must be sworn. This standard is consistent with both existing juvenile and family court acts and with the various model juvenile and family court acts.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for Pre-Trial Court Proceedings.* (Stanley Z. Fisher, reporter; unpublished 1976).

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Juvenile Probation Function; Intake and Predisposition Investigative Services.* (Josephine Gittler, reporter; unpublished, January 1976).

3. National Conference of Commissioners on Uniform State Laws. *Juvenile Court Act.* Chicago, Illinois: National Conference of Commissioners on Uniform State Laws, 1968.

4. National Council on Crime and Delinquency. *Model Rules for Juvenile Courts.* New Jersey: National Council on Crime and Delinquency, 1969.

5. National Council on Crime and Delinquency. *Standard Juvenile Court Act.* New Jersey: National Council on Crime and Delinquency, 1959.

6. Nevada Revised Statutes, Section 62.128 (1967).

7. Rhode Island General Laws Annotated, Section 14–1–10 (1970).

8. Sheridan, William H. United States Children's Bureau, *Legislative Guide for Drafting Family and Juvenile Court Acts.* Washington, D.C.: Government Printing Office, 1969.

Related Standards

The following standards may be applicable in implementing Standard 15.14:

9.1 Definition of Delinquency
12.1 Case Processing Time Frames
12.5 Petition and Summons
15.13 Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings
15.15 Form and Content of Petition Filed With Family Court by Family Court Prosecutor
19.2 Creation of a State Agency for Juvenile Intake and Corrections

Standard 15.15

Form and Content of Petition Filed With Family Court by Family Court Prosecutor

Petitions filed by family court prosecutors with the family courts to initiate formal adjudicatory processes should be in writing and signed by the family court prosecutors, to certify that they have read the petition and that, to the best of their knowledge, information, and belief, the petition is true.

The petition should set forth facts sufficient to allege the subject matter and establish the jurisdiction of the court; where the basis of the proceeding is a law violation, the document should set forth the specific law allegedly violated by the juvenile. The petition also should describe facts sufficient to inform juveniles of the acts or omissions they are alleged to have committed.

The petition should contain the following separate parts:

1. The name, address, and date of birth of the juvenile;

2. The name and address of the juvenile's parents or guardian;

3. The date, time, manner, and place of the acts alleged as the basis of the court's jurisdiction;

4. The citation to the section of the Family Court Act relied upon for jurisdiction;

5. The citation of the Federal, State, or local law or ordinance, if any, alleged to have been violated by the juvenile; and

6. A brief statement of the adjudicatory relief sought.

Commentary

Under most juvenile court acts the facts set forth in the petition must be verified by oath or affidavit of the party authorized to file the petition, or supported by affidavit of the complainant. However, since the procedure adopted in Standard 15.14 requires the underlying complaint to be sworn, no more should be required of the prosecutor than to certify the petition with a signature. The standard is patterned in this regard after Rule 11, *Federal Rules of Civil Procedure,* which provides:

> Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name. . . . The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it . . . .

With respect to the content of the petition, the goal of the standard is the same as that of pleading requirements in general—i.e., to set forth all factual and other allegations asserting that the juvenile is within the jurisdiction of the family court, and pointing in the direction of the adjudicatory options open to the family court by way of relief. The standard is patterned after the Institute of Judicial Administration/American Bar Association, Justice Standards Project, *Standards for Pretrial Court Proceedings*, Standard 1.2, Contents of Petition (Stanley Z. Fisher, reporter; unpublished, 1976), except that it does not include allegations of a child's need for treatment, care or rehabilitation, because it was believed that this should be left to the dispositional aspect of the proceedings.

References

1. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Projects, *Standards for Pretrial Court Proceedings*. (Stanley Z. Fisher, reporter; unpublished, 1976).

2. National Conference of Commissioners on Uniform State Laws. *Juvenile Court Act*. Chicago: National Conference of Commissioners on Uniform State Laws, 1968.

3. National Council on Crime and Delinquency. *Model Rules for Juvenile Court*. New Jersey: National Council on Crime and Delinquency, 1969.

4. National Council on Crime and Delinquency. *Standard Juvenile Court Act*. New Jersey: National Council on Crime and Delinquency, 1959.

Related Standards

The following standards may be applicable in implementing Standard 15.15:

8.2	Family Court Structure
9.1	Definition of Delinquency
12.1	Case Processing Time Frames
12.4	Juvenile's Initial Appearance in Court
12.5	Petition and Summons
12.11	Detention Hearings
15.8	The Role of Family Court Prosecutor
15.13	Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings
19.2	Creation of a State Agency for Juvenile Intake and Corrections

Standard 15.16

Dismissal of Petition Upon a Subsequent Finding of Lack of Legal Sufficiency

If subsequent to the filing of a petition, the family court prosecutor determines there is an insufficient quantum of evidence, admissible in a court of law under the rules of evidence, to establish the legal sufficiency of the petition, the prosecutor should move to dismiss the petition.

Commentary

Standard 15.13 provides that the intake officer will make the initial determination on the evidence in a case, with the family court prosecutor providing advice on the legal sufficiency of that evidence. In the majority of cases, this procedure prevents the filing of both complaints and petitions where there is no probable cause to believe that the subject committed the act(s) alleged, or where the family court would lack jurisdiction.

Isolated instances may arise, however, in which a petition is filed and the family court prosecutor subsequently realizes that the petition lacks legal sufficiency. For example, new evidence may be discovered after the filing that indicates the subject did not commit the alleged act. Or the family court prosecutor may discover that the youth is either too old or too young to satisfy the jurisdictional requirements of the family court. When such a situation arises, the family court prosecutor should move to dismiss the petition. Both fairness to the youth and conservation of family court resources dictate that this course of action be followed.

References

1. Boston University, School of Law, Center for Criminal Justice. *Prosecution in the Juvenile Courts: Guidelines for the Future* (Appendix B). Boston, Mass., Center for Criminal Justice, 1973.
2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function.* (James P. Manak, reporter; Working Draft No. 6; April 1976).

Related Standards

The following standards may be applicable in implementing Standard 15.16:

- 9.1 Definition of Delinquency
- 13.1 Plea Negotiations Prohibited
- 13.5 Adjudication of Delinquency—Standard of Proof
- 15.8 The Role of Family Court Prosecutor
- 15.17 Disclosure of Evidence Favorable to Juvenile
- 15.18 Family Court Prosecutor's Role in Plea Negotiations

Standard 15.17

Disclosure of Evidence Favorable to Juvenile

The family court prosecutor has the same obligation to disclose evidence favorable to a youth in family court proceedings as does the prosecuting attorney in adult criminal proceedings.

Commentary

The primary duty of family court prosecutors is to see that justice is done. If they possess evidence favorable to the youths, they are under the same obligation as regular prosecuting attorneys to disclose that evidence. These prosecutors should never permit juveniles to be adjudicated delinquent or in need of services if there is evidence indicating that the adjudication is not proper or not in the best interests of the juveniles.

As in the case of the criminal prosecutor, building a record of successful adjudications (petitions sustained) is not a proper goal in itself for the family court prosecutor. That individual should not seek a particular disposition in any case where there is evidence of mitigating circumstances indicating that such disposition is not necessary to vindicate the interests of the State. To do so would be a violation of the prosecutor's duty to seek justice.

References

1. American Bar Association, *Code of Professional Responsibility.*

2. Institute of Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards for the Prosecution Function.* (James P. Manak, reporter; Working Draft No. 6; April 1976).

3. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to the Prosecution Function and the Defense Function.* (Approved Draft, 1971). New York: Institute of Judicial Administration, 1971.

Related Standards

The following standards may be applicable in implementing Standard 15.17:

13.5 Adjudication of Delinquency—Standard of Proof
15.8 The Role of Family Court Prosecutor
15.16 Dismissal of Petition Upon a Subsequent Finding of Lack of Legal Sufficiency
15.18 Family Court Prosecutor's Role in Plea Negotiations

Standard 15.18

Family Court Prosecutor's Role in Plea Negotiations

After the initial contact of a complainant with the intake office of the appropriate State agency, the family court prosecutor should not engage in plea negotiations or plea agreements with any person at any stage of juvenile proceedings. Proscribed plea negotiations and plea agreements are those actions of a family court prosecutor that lead to the following:

1. Reduction in seriousness of a charge originally filed;

2. Dismissal of individual counts or number of charges; or

3. Recommendations on action or inaction with regard to the ultimate disposition of a case.

Commentary

One of the most troublesome problems in the criminal justice system concerns the propriety of plea negotiations and plea agreements, commonly called plea bargaining. Opponents criticize this practice because the practice (1) gives the prosecuting attorney an incentive to overcharge, (2) allows jurisdictions an opportunity to disguise the fact that their judicial and correctional systems are inadequately staffed and financed, (3) results in the reduced rationality of the processing of criminal defendants, and (4) discourages defendants from exercising their constitutional rights. For these reasons, The National Advisory Commission on Criminal Justice Standards and Goals advocated in 1973 that plea discussions in the criminal courts be abolished as soon as possible, but in no event later than 1978.

On the other hand, defenders of plea bargaining cite positive effects that spring from its judicious use. Some of these alleged benefits are: (1) the defendant receives prompt and certain application of correctional measures; (2) psychologically, the rehabilitative process begins more quickly once the defendant admits guilt; (3) alternative correctional measures better suited to achieving rehabilitation may be available to the defendant who admits committing a lesser offense; and (4) the trial process is limited to deciding real disputes. For these reasons, various ABA Standards for Criminal Justice, Pleas of Guilty, Juvenile Justice Standards Project, Standards for the Prosecution Function and Standards for Adjudication sanction plea negotiations and plea agreements.

Both critics and defenders of the process have advanced cogent arguments in support of their respective positions. However, this report concludes that no form of plea negotiations and plea agreements should be practiced in juvenile proceedings by any of the parties or participants. The reason for this stand is the discredited appearance of the negotiated justice process, with its bargaining and trading of constitutional and statutory rights and its debilitating effect on a juvenile's perceptions of the system as a whole. For a complete exposition of the policy reasons underlying this position, see Standard 13.1.

As a corollary to this position on plea bargaining, it should be emphasized that under no circumstances should family court prosecutors recommend the filing of any charge they believe cannot be proven; and no juveniles should be permitted to admit to any charges that they did not commit.

References

1. Institute of Judicial Administration/American Bar Association, Project on Standards for Criminal Justice. *Standards Relating to Pleas of Guilty.* (Approved Draft, 1968). New York: Institute of Judicial Administration, 1968.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts.* Washington, D.C.: U.S. Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 15.18:

13.1 Plea Negotiations Prohibited
15.8 The Role of Family Court Prosecutor

Standard 15.19

Dispositions—Requirement of Taking an Active Role

Family court prosecutors should take active roles in dispositional hearings, making independent recommendations after reviewing reports prepared by their staff, the probation department, and others. While the safety and welfare of the community are a paramount concern, family court prosecutors should consider alternative modes of disposition that more closely satisfy the interests and needs of juveniles without jeopardizing public safety.

Commentary

Those who view the family court prosecutor as less than an advocate see no need to give the prosecutor a voice at the dispositional phase of the proceedings. For example, one commentator has suggested that the prosecutor should merely "assist the court to obtain a disposition of the case which is in the best interest of the child." (Whitlatch, "The *Gault* Decision: Its Effect on the Office of the Prosecuting Attorney," 41 *Ohio Bar J.* 41 (1968). However, those who view the family court prosecutor as essentially an advocate in an adversary system (although not the traditional criminal adversary model), and as one who has the interests of the State as a primary goal, would wish to give the prosecutor a clear voice in the disposition phase of juvenile proceedings.

The survey of 68 major American cities conducted by the Center for Criminal Justice, Boston University School of Law, found that the prosecutor made a recommendation on disposition in only 8.8 percent of those cities. In 60.3 percent of the cities, the probation officer made the disposition recommendation.

Despite the negative views of many on a traditional and adversary position for the prosecutor in juvenile court, this standard affirms that the family court prosecutors should take an active role at the dispositional stage and make independent dispositional recommendations. Further, the recommendations should be independent of those made by probation departments or counsels for the juvenile, although all may reach the same conclusion.

Family court prosecutors need not seek the most severe disposition allowable under the facts and the law. Rather, they should take into account the interests and needs of the juveniles involved and their prospects for rehabilitation in different dispositional programs. The prosecutors should consider all appropriate social and medical reports prepared by their investigators, probation departments, and other agencies. They might also consider juveniles' police and court records.

To achieve greater uniformity in the administration of juvenile justice, family court prosecutors are encouraged to consider dispositions made in similar cases. They may decide to recommend the disposition sought by a juvenile's counsel, but should do so only if the interest of the community would not be sacrificed and the juvenile's short- and long-term interests would not be damaged.

Implicit in any disposition, whether it be institutionalization or probation, is the recommendation of a time limit. In many States, youths now placed in institutions or training schools will likely remain there until they reach majority. In many instances, the safety and welfare of the community do not require that long a detention period, and frequently this disposition has not been in the juvenile's best interests. Often, there also has been a failure of the correctional system and the juvenile court to monitor the progress of juveniles after they are institutionalized.

By imposing a time limitation on each dispositional recommendation, the family court prosecutor would at least be able to sound the warning that youths are not to be forgotten after their day in court.

In making dispositional recommendations, family court prosecutors must be in a position to make sound choices. To this end they are encouraged to assess periodically the success of each mode of disposition to which juveniles in their jurisdictions are subjected. If they find that a particular mode of disposition fails to meet either the juveniles' needs for care and treatment, or the community's safety and welfare, they should inform the family court and the department or organization in charge, and cease recommending that particular mode of disposition. The prosecutors need not monitor individually each disposition made by the family court. Their primary duty in this area is directed toward the efficacy of various modes of dispositions rather than toward individual cases. However, either in the course of periodically evaluating those modes, or through the receipt of complaints from juveniles, parents, or guardians, the family court prosecutor should become aware when a particular disposition class of dispositions, or a dispositional order is being frustrated by the official action or inaction of correctional agencies. When this occurs, he or she should inform the family court to that effect so that it can take appropriate action.

Some observers may believe that the duties of family court prosecutors should not encompass monitoring the effectiveness of various disposition modes, but there are sound reasons for the prosecutors' involvement in this phase of the juvenile justice system.

First, since the parents of many young people who enter the formal processes of the system are indigent, it is unlikely that counsel for affected youths will monitor the effectiveness of the disposition made by the family court. Yet young people have a right to treatment, care, or rehabilitation if that is the stated purpose of a dispositional order. *Nelson* v. *Heyne*, 364 F. Supp. 166, 175 (E.D. Tex. 1973); *Martarella* v. *Kelley*, 349 F. Supp. 575, 585 (S.D.N.Y. 1972).

Someone must evaluate whether the various disposition modes employed by the courts are accomplishing their stated purpose. Although probation officers or social workers will be monitoring the general effectiveness of the various programs, they may not have the authority to compel the attention of the proper officials; also, their interests do not always coincide with those of the youth. The family court prosecutor, by virtue of the power and prestige of that office, should be able to compel such attention.

Second, by virtue of their activity in this area, family court prosecutors are more likely to command the respect and cooperation of the entire community. Finally, the rehabilitation of young people remains a paramount goal for the juvenile justice system. Much of the effort expended by the family court prosecutor and other participants in the system is rendered ineffective if dispositional programs are unsuccessful. As the representative of the State's interests, the family court prosecutor should insure that such programs are effective.

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5. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

6. National Council on Crime and Delinquency. *Model Rules for Juvenile Courts*. New Jersey: National Council on Crime and Delinquency, 1969.

7. *Nelson* v. *Heyne*, 491 F. 2d 352 (7th Cir. 1974).

8. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

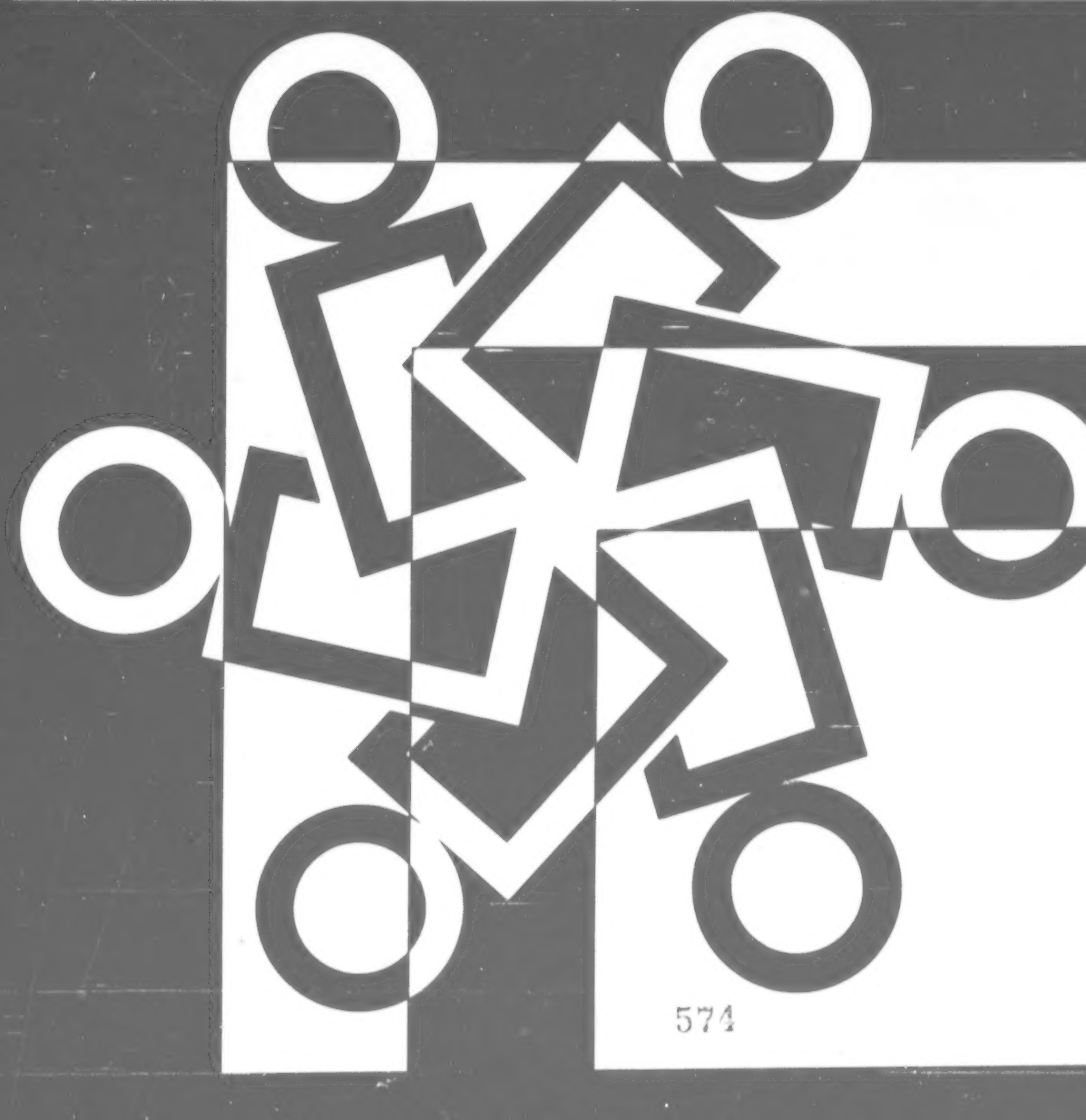
9. Whitlatch. "The *Gault* Decision: Its Effect on the Office of the Prosecuting Attorney." *Ohio Bar Journal*, Vol. 41 (1968).

Related Standards

The following standards may be applicable in implementing Standard 15.19:

14.1 Purpose of Dispositions
14.7 Formal Dispositional Hearing
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.13 Classes of Delinquent Acts for Dispositional Purposes
14.14 Limitations on Type and Duration of Dispositions
14.15 Criteria for Dispositional Decision
14.17 Multiple Delinquent Acts
15.8 The Role of Family Court Prosecutor
15.18 Family Court Prosecutor's Role in Plea Negotiations

Chapter 16
Defense—
The Child Advocate



INTRODUCTION

Role

It is the fundamental right of each citizen to have his or her conduct judged and regulated in accordance with law, to seek any lawful objective through legally permissible means, and to present for adjudication any lawful claim, issue, or defense. The role of private counsel in the family court is supportive of this basic right and should be governed, as it is in the adult setting, by the American Bar Association (ABA) Code of Professional Responsibility, EC 7-1.

Although the Code of Professional Responsibility applies to all attorneys and covers all proceedings, there are obvious distinctions and differences in application to the juvenile client. Even though the attorney is expected to advise his or her client of all circumstances relevant to the various decisions the client must make, factors such as the client's lack of maturity and the client's relationship with its parents—factors not ordinarily present in the attorney-client relationship—also must be considered. The attorney in family court also may engage in counseling the juvenile client in nonlegal matters, which the typical attorney-client relationship also does not entail. (Standard 16.2)

Another special problem for the family court attorney involves respecting and maintaining the young and often immature client's right to self-determination—the right to make his or her own choices pertaining to the conduct of the case. It is often difficult to achieve the degree of communication necessary to insure that a particular juvenile has all the information essential to making such choices and that the client's choices are communicated adequately to the attorney. Furthermore, youthful clients tend to be highly suggestible and manipulative, especially when dealing with adult authority figures. Thus, these standards provide that, while it is proper for the lawyer to question the credibility of the client's statements, care should be taken not to suggest that the client give a version of the facts that is untruthful or less than candid. (Standard 16.12)

Additional problems arise when the client is incompetent. If the juvenile cannot understand the nature and consequences of the proceedings, he or she cannot take the initial step necessary for a viable attorney-client relationship, i.e., determining his or her own interests in the proceedings and communicating these to the attorney. These standards require that in such a situation the lawyer bring this circumstance to the attention of the family court and request that a guardian ad litem be appointed for the client. (Standard 16.3) The standards recommend that the family court select a person as guardian ad litem who is likely to protect the rights of the minor or incompetent and that it appoint neither a person with adverse interests nor such person's attorney as guardian ad litem. The standards further define the role of counsel appointed guardian ad litem. They require a thorough investigation into all circumstances, adequate representation, and the taking of a dispositional position requiring the least intrusive intervention justified by the circumstances.

Availability of Counsel in Family Court Proceedings

The right of juvenile respondents to legal representation in delinquency proceedings was established by *In re Gault*, 387 U.S. 1 (1967). These standards recommend that this right to representation be extended to include all children involved in proceedings on Family With Service Needs, Endangered Children, child custody, termination of parental rights, and civil commitment. Such representation must be made available without cost if the child is indigent. The standards recognize that it is the actual nature and consequences of such proceedings, rather than their traditional labels, that determine the need for counsel, and, therefore, urge that the characterization of such proceedings as civil not be a determining factor in providing counsel. (Standard 16.5)

The standards do allow a juvenile to waive right to counsel but provide for rigorous safeguards on this procedure. It is recommended that the court provide counsel to a juvenile who initially indicates a desire to waive counsel for the purpose of conferring with the juvenile about the wisdom of such waiver. It is also recommended that the court conduct a thorough inquiry into the circumstances of any waiver to determine its validity. Counsel should be provided to the juvenile despite his or her desire to waive that right, unless the court is satisfied that the juvenile is sufficiently mature to make the decision and understands the nature of the allegations and of possible defenses, his or her procedural rights, and the possible consequences of an adverse finding on the merits.

The role of parents in family court proceedings also was considered. It is recognized that they have important interests at stake in all cases where they may be deprived of the custody of their child for a substantial period of time. Parental interests vary according to the nature of the proceedings, and, therefore, the standards do not provide for legal assistance for parents under all circumstances. In cases where it is alleged that the child is endangered, the parent, guardian, or custodian of the child should have the right to legal assistance, without cost if necessary, because the acts and conduct of the parent may be directly at issue in such proceedings. Where the child is alleged to be delinquent or may be adjudicated in a Family With Service Needs proceeding, the parent, guardian, or custodian should have the right to counsel, without cost if necessary, only at the dispositional stage of the proceedings, and then only if it appears that their participation in the dispositional order or plan will be required. (Standard 16.6.)

Adequacy of Counsel

Because a significant proportion of family court clients are poor, counsel must be provided without cost to meet the minimum requirements of *In re Gault* and the Constitution. But beyond this, there is a need to insure adequate representation. In some jurisdictions counsel is available to indigent persons only for part of the proceedings because of an inadequate pool of capable attorneys. Defender agencies and assigned counsel systems often are understaffed and lack adequate supporting services.

Responsibility for insuring that competent attorneys are available to provide legal assistance in the family court should rest with the entire legal community. This includes the courts, legal aid and defender agencies, educational institutions, and the private bar. Adequate training of lawyers for family court representation can be accomplished through joint cooperative efforts among all segments of the legal community. Undergraduate and postgraduate curricula should be expanded to include courses relating to representation in family court. Such programs should include both the legal and nonlegal aspects of family court representation. Apprentice-type relationships, in which lawyers work alongside counsel experienced in family court proceedings, are encouraged. The standards also make clear that the appointing authority in family court proceedings be charged with the responsibility for maintaining adequate representation. This can be accomplished by careful evaluation of each lawyer's competence, taking into account educational background and experience in family court or related practice. (Standard 16.8)

Provision of Defender Services

Three options for providing defender services to indigent persons involved in family court proceedings were considered: (a) an all public defender system; (b) an all appointed private counsel system; (c) a combination public defender/appointed private counsel system. Although public defender agencies could easily develop and retain special expertise in family court matters, the broadest participation possible by the bar in family court proceedings should be encouraged, to insure the vitality of the juvenile justice system. Moreover, there are many situations in which a public defender agency cannot represent all eligible clients because of conflicts of interest. Therefore, a mixed system of public defender services and assigned private counsel is preferred. Responsibility for coordinating this combined counsel system could be placed with the public defender agency itself, or with an independent State bar association committee. (Standard 16.9) Appointment and compensation of counsel to indigent persons involved in family court proceedings should be the responsibility of the public defender office or a State bar association committee, with the trial court entitled to add names to the panel of attorneys. (Standard 16.10)

A great deal of consideration also was given the issue of providing adequate compensation for attorneys assigned to family court proceedings. As long ago as 1963, the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice recognized that reliance on a system of uncompensated counsel for indigent persons was unsuccessful, inadequate, and failed to reflect the public importance of the constitutional right to counsel. This position was restated in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals in its report, *Courts*.

These standards recommend that private counsel assigned to family court cases receive compensation for time and services commensurate with prevailing professional rates, as well as full reimbursement for investigation and litigation expenses. On the separate matter of compensation for attorneys employed by public defender agencies, it is recommended that they be paid a salary equivalent to that paid other government attorneys having similar qualifications, experience, and responsibilities. (Standard 16.11)

Standard 16.1

Juvenile's Right to Counsel

A juvenile should be represented by a lawyer at every stage of delinquency proceedings. If a juvenile who has not consulted a lawyer indicates intent to waive assistance of counsel, a lawyer should be provided to consult with the juvenile and his or her parents on the wisdom of such waiver. The court should not accept a waiver of counsel unless it determines after thorough inquiry that the juvenile has conferred at least once with a lawyer, and is waiving the right competently, voluntarily, and with full understanding of the consequences.

Commentary

The juvenile's right to counsel in delinquency proceedings is guaranteed by the due process clause of the 14th amendment and by the Supreme Court decision *In re Gault*. Without the right to counsel, juveniles may lose access to their other rights under the law. And because legal representation normally assists the court in performing its duties, the public has an interest in affording counsel to all defendants. The purpose of this standard is to insure that this right is realized at every stage of the proceedings.

Although every jurisdiction recognizes the juvenile's right to counsel, in practice, many delinquency respondents do not have benefit of legal representation. This occurs because the juvenile is permitted by law, and often encouraged by practice, to waive the right. The law requires that to be valid, waiver of counsel be made knowingly, voluntarily, and intelligently. Unfortunately, these criteria are subject to loose interpretation. Pressures exist to induce juveniles to waive their most fundamental rights. For example, youths may be given to understand that if they exercise their right to counsel, they might irritate the police or court officials handling the case. It may be suggested that a waiver, on the other hand, would indicate a cooperative attitude that will be rewarded at the disposition. In some instances, the defendant experiences parental pressures to dispense with counsel, either for the purpose of appearing cooperative or to avoid the expense. Unfortunately, judges have been known to discourage the use of counsel for numerous reasons.

Because of the risks inherent in permitting juveniles involved in delinquency proceedings to waive the right to counsel, consideration was given to recommending that legal representation be made mandatory. This approach was recommended in 1967 by the President's Commission on Law Enforcement and Administration of Justice, and several States and the Federal system have adopted this approach. However, it was determined that such a standard would impose counsel on unwilling youths, and would compel the families of such youths to pay for unwanted services. Consideration was also given to the Supreme Court's decision in *Faretta* v. *California,* which interpreted the 6th amendment as guaranteeing to criminal defendants the right to represent themselves in court. The standard, therefore, permits a juvenile to waive counsel, but imposes rigorous safeguards on that procedure. Pursuant to the ABA Standards for Criminal Justice, the court should be required to provide counsel for the purpose of conferring with a juvenile who initially indicates a desire to waive counsel. The court then should conduct a thorough inquiry into the circumstances of any waiver to determine its validity.

A lawyer should be provided to confer with all juveniles and their parents about the wisdom of waiver to discuss with them the advantages and disadvantages of legal representation in the case. This practice, however, is subject to two kinds of abuse. A court could appoint for this purpose a lawyer whose actual task would be to encourage the waiver of counsel. This abuse could be discouraged by rotating this duty among members of the bar. A greater danger arises when the consulting attorneys are eligible for appointment or retention in the case; they may attempt to sell their services. Even if an attorney's conduct of a case is beyond reproach, the practice still could attract criticism from defendants dissatisfied with the case outcome. Yet, it may be unwise to disqualify the consulting attorneys from serving in these cases after they gain the client's trust and convince the client to decide against waiver. Individual jurisdictions adopting this standard may wish to address these difficulties in rules of court.

Before accepting a waiver of counsel, the court should probe deeply into the juvenile's competence, his or her understanding of the consequences of dispensing with counsel, and the voluntariness of the waiver decision. For these purposes, the court should address the juvenile personally. Counsel should be provided despite the juvenile's desire to waive the right, unless the court is satisfied that the juvenile is sufficiently mature to make the decision and understands the nature of the allegations and of possible defenses, his or her procedural rights, and the possible consequences of an adverse finding on the merits. The court also should determine whether the desire to waive counsel rests on any expectation of leniency. Throughout this inquiry, the court's language and tone should be calculated to encourage exercise of the right to counsel.

If the court accepts a waiver, it should insure that the offer of counsel is renewed at each subsequent stage of the proceedings at which the juvenile appears without counsel.

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2. *Faretta* v. *California,* —— US ——, 43 LW

3. *In re Gault,* 387 US 1 (1967).

4. Lefstein, Stapleton and Teitelbaum, "In Search of Juvenile Justice: *Gault* and Its Implementation," *Law and Society Review,* Vol. 3 (1968–69).

5. Note, "Waiver of Constitutional Rights by Minors: A Question of Law or Fact?" *Hastings Law Journal,* Vol. 19 (1968).

6. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 16.1:

4.5	Procedural Differences for Handling Juveniles
5.8	Guidelines for Interrogation and Waiver of the Right Against Self-Incrimination
8.2	Family Court Structure
9.5	Waiver and Transfer
12.3	Court Proceedings Before Adjudication in Delinquency Cases
12.4	Juvenile's Initial Appearance in Court
12.5	Petition and Summons
12.11	Detention Hearings
13.2	Acceptance of an Admission to a Delinquency Petition
13.3	Withdrawal of Admissions
13.4	Contested Adjudications
14.7	Formal Dispositional Hearing
14.21	Modification of Dispositional Orders
14.23	Families With Service Needs—Dispositional Alternatives
14.24	Responsible Self-Sufficiency
14.25	Endangered Children—Dispositional Resources
16.2	The Role of Counsel in the Family Court
16.3	The Role of Counsel for the Incompetent Client
16.4	The Role of Counsel Appointed Guardian Ad Litem
16.5	Representation for Childen in Family Court Proceedings

16.7 Stages of Representation in Family Court Proceedings
16.9 Organization of Defense Services
20.5 Hearing Rights of Accused Juvenile

Standard 16.2

The Role of Counsel in the Family Court

The principal duty of an attorney in family court matters is to represent zealously a client's legitimate interests under the law. In doing so, it is appropriate and desirable that the lawyer advise the client of the legal and social consequences of any decision the client might make, as well as to advise the client to seek the counsel of parents or others in making that decision. However, the ultimate responsibility for making any decision that determines the client's interests within the bounds of the law remains with the client.

Commentary

In its Code of Professional Ethics, the ABA sums up one of the fundamental principles of our legal system: "Each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense." [ABA, Code of Professional Responsibility, EC 7-1.]

This principle generally governs the role of counsel both in civil and criminal cases. It requires that an attorney seek the lawful objectives of the client through all reasonably available means. At the same time, it leaves with the client the right to choose among lawful objectives.

In any court proceeding, there are several pivotal decisions that can affect the outcome of the case and the interests of the client. Among these are whether to admit or deny pending charges, whether to accept or refuse subjudicial disposition of a case, and whether or not to exercise a right or privilege provided by law. In most instances, these choices must be made by the client rather than by counsel. This allocation of responsibility, where counsel advises and client decides, serves to insure that the lawful rights of the client have substantial meaning. Where counsel usurps the decisionmaking power of the client, the basic rights of the client are denied. This occurs, for example, when an attorney convinced of a client's guilt, refuses to enter a denial on behalf of the criminal defendant. In this case, the attorney has, for all practical purposes, forfeited the client's right to require the State to prove guilt before conviction and sentencing.

Of course, all lawyers, including those engaged in family court practice, should advise their clients fully of all circumstances bearing on the decisions to be made. The attorney may counsel the client concerning both legal and nonlegal considerations in the case, and also may suggest that the client discuss the matter with other interested persons, such as the client's family. Attorneys also should be prepared to assist a young client in understanding parental perceptions of the client's behavior, as well as the view of legal institutions regarding that conduct. Counsel may also ascertain whether the client or the family could benefit from non-legal services.

It should be emphasized that advice and counseling on these matters are not inconsistent with the attorney's primary responsibility to advocate a client's interests in pending legal proceedings. But the line between counseling and decisionmaking must be respected. It would be improper, for example, for an attorney to present the alternatives to the client in a manner that effectively eliminates the opportunity for choice. Nor should an attorney appointed to a case insist that the client accept his or her own view of the matter. At the same time, lawyers need not, and often should not, limit their entire concern to the technical aspects of representation.

Both advocacy and counseling functions must be performed within the bounds of the law. Although a party is entitled to insist that the State justify its intervention by legally admissible evidence and fair procedure, no party is entitled to insist that counsel use perjured testimony, false evidence, dilatory tactics, or any other strategy prohibited by law or ethical rule. At the same time, the lawyer should be careful to avoid intentional misrepresentations of fact in dealing with court, prosecutorial, or probation department personnel. As in criminal cases, the plea itself should not be considered a representation of fact for these purposes. However, both ethical and institutional considerations require candor in all other representations.

Related Standards

The following standards may be applicable in implementing Standard 16.2:

8.2 Family Court Structure
13.1 Plea Negotiations Prohibited
13.4 Contested Adjudications
13.5 Adjudication of Delinquency—Standard of Proof
14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.21 Modification of Dispositional Orders
16.3 The Role of Counsel for the Incompetent Client
16.4 The Role of Counsel Appointed Guardian Ad Litem
16.5 Representation for Children in Family Court Proceedings
16.6 Representation for Parents in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
16.12 Communications with Youthful Clients and Witnesses
28.2 Access to Juvenile Records
28.5 Sealing of Juvenile Records

Standard 16.3

The Role of Counsel for the Incompetent Client

If an attorney finds, after interview and other investigation, that the client cannot understand the nature and consequences of the proceedings affecting him and is, therefore, unable to determine rationally his or her own interests in that proceeding, the attorney should promptly bring that circumstance to the court's attention and ask that a guardian ad litem be appointed on the client's behalf.

Commentary

The attorney's duty to advocate the lawful objectives chosen by a client presumes that the client has sufficient understanding of the nature and consequences of the proceedings to be able to make rational choices among available alternatives. This test for capacity should not require that the client be able to make a wise decision concerning the course that will be best in the long run; wisdom of this kind is not expected even of adult defendants. Nor is it obvious that most parents or lawyers can make accurate judgments on such issues. It is sufficient that the client understands the charges and the consequences that can flow from an adjudication. In most cases, this relatively low standard will be satisfied.

There will be cases, however, where this test cannot be met. Endangered child and custody cases frequently involve very young children who have no meaningful understanding of the proceedings in which they are involved. And sometimes, even older children and adults involved in delinquency, Families With Service Needs, and other proceedings cannot meet the test. Whether because of immaturity, mental disease, or mental defect, they are incapable of appreciating the nature and consequences of legal proceedings and of making a rational judgment concerning their interests in the proceeding. When attorneys, after interviewing their client and conducting other investigation, find this to be the case, they should bring this circumstance to the court's attention at the earliest opportunity and then should ask that a guardian ad litem be appointed on the client's behalf.

The court is obligated to select as guardian ad litem a person who is likely to protect the rights of the minor or incompetent client. Neither a person with adverse interests nor such person's attorney could properly serve in this role. Therefore, when requesting appointment of a guardian ad litem, counsel should present any information that may bear on the choice of a guardian, such as knowledge of conflict between a child and parents. Where there is no statute requiring that the guardian *ad litem* be an attorney, the child's nearest relative often will be appointed to represent the minor. Disclosure by counsel of any evidence of conflict is, therefore, most important.

If a person other than counsel is appointed as guardian ad litem, the attorney should advocate the lawful objectives of the client as determined by the guardian on behalf of the client.

Related Standards

The following standards may be aplicable in implementing Standard 16.3:

8.2 Family Court Structure
14.18 Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.4 The Role of Counsel Appointed Guardian Ad Litem
16.5 Representation for Children in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
16.12 Communications with Youthful Clients and Witnesses

Standard 16.4

The Role of Counsel Appointed Guardian Ad Litem

A lawyer appointed to serve as guardian ad litem for a person subject to family court proceedings should inquire thoroughly into all circumstances that a careful and competent person in the ward's position would consider in determining his or her interests in the proceeding. When the client is the respondent, the guardian ordinarily should require proof of the facts necessary to sustain jurisdiction, and, if jurisdiction is sustained, take the position requiring the least intrusive intervention justified by the child's circumstances. In representing a child in Endangered Child, custody, or adoption proceedings, the guardian may limit his or her activity to presentation and examination of material evidence or may adopt the position requiring the least intrusive intervention justified by the child's circumstances.

Commentary

Any person, including an attorney, appointed guardian ad litem for a minor generally is charged with the duty of protecting the rights of the minor. Ordinarily, a guardian should require proof of every material allegation, which, if established, might operate to the detriment of the child. This requirement is particularly justified when the child's lawyer has been appointed the guardian ad litem. It serves to protect the client from overreaching by attorneys who might insist upon adoption of their views of the matter and who consider incompetent the client who does not agree.

The requirement of proof is further justified by the realistic limits of a lawyer's ability to deal with very young or disturbed persons. It is important to insure that difficulties in communication, inadequate investigation, and the like, do not characterize a delinquency or Families With Service Needs proceeding.

In every case, the guardian ad litem is expected to act in good faith and with diligence. The guardian should investigate thoroughly the facts and legal propositions involved in the matter and consider the ward's situation with the same care that the ward would exercise if competent. When the ward is a respondent, the guardian usually should require that a prima facie case be established. If there is no realistic defense, or after jurisdiction has been proved, the guardian should inquire into available dispositional alternatives and be prepared to present the program that, in his or her judgment, is best suited to the respondent's circumstances. As a general rule, the guardian should take the position that requires the least intrusive intervention justified by the ward's circumstances. In some cases, this might mean probation or suspended adjudication. In others, removal of the child from the home might be required.

This standard recommends that, whenever possible, the least drastic form of intervention be sought. This position is explained in part by unevenness and uncertainty of lawyers' expertise in psychosocial diagnoses. But it also is supported by traditional juvenile court theory. Juvenile court legislation traditionally has leaned toward a preference for treatment in the home rather than the more radical dispositional choices. And commitment is viewed, at least in principle, as a last resort. Nonlegal authority also supports a preference for the least drastic form of intervention available.

The above approach also is appropriate in cases in which the ward is not the respondent in the proceeding but will be affected by it. In some instances, however, the guardian of a child subject to Endangered Child, custody, or adoption proceedings may conclude that, of the dispositions available, none is significantly more desirable than another. When determination of the child's best interest requires training the guardian does not possess, the guardian should be permitted to limit his or her activity to thorough investigation of the matter and examination of evidence material to the case.

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3. *In re Braun,* 145 N.W. 2d 482 (N.D. 1966).

4. New Mexico Statutes Annotated, Section 1(3).

5. Illinois Revised Statute, Chapter 37, Sections 701–2.

Related Standards

The following standards may be applicable in implementing Standard 16.4:

8.2	Family Court Structure
14.18	Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles
16.1	Juvenile's Right to Counsel
16.2	The Role of Counsel in the Family Court
16.3	The Role of Counsel for the Incompetent Client
16.5	Representation for Children in Family Court Proceedings
16.7	Stages of Representation in Family Court Proceedings
16.12	Communications With Youthful Clients and Witnesses

Standard 16.5

Representation for Children in Family Court Proceedings

Legal representation should be made available, without cost if necessary, to any child whose liberty, custody, or status may be affected by delinquency, Families With Service Needs, Endangered Child, child custody, termination of parental rights, or civil commitment proceedings.

Commentary

Family court proceedings typically require decisions that affect the liberty, custody, or status of children. In some matters such as delinquency cases, the child is the formal respondent. In others, the child is not a formal party to the proceedings. But in both instances, the decisions made can affect its future profoundly. Therefore, it is urged that legal representation for a child whose vital interests are at stake not depend on designation as a formal party; rather, it should obtain as a matter of course.

Delinquency Proceedings

Pursuant to *In re Gault,* 387 U.S. 1 (1967), a juvenile respondent's right to legal assistance in delinquency proceedings cannot be questioned. As the Supreme Court observed, "A proceeding where the issue is whether the child will be found to be 'delinquent' and subjected to the loss of his liberty for years is comparable in seriousness to a felony prosecution. The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child 'requires the guiding hand of counsel at every step in the proceedings against him'." [387 U.S. 1 at 36.]

Families With Service Needs Proceedings

The *Gault* decision did not consider juvenile or family court proceedings other than delinquency. But there is general agreement that children petitioned under the traditional "in need of supervision" statutes have the same need for legal assistance. One reason for this need is that adjudication as a child in need of supervision ordinarily entails many of the consequences associated with a finding of delinquency. Respondents may be removed from their homes, often for the remainder of their minority, and placed in an institution that, for most purposes, is indistinguishable from facilities for delinquents. A recent study in New York State, for example, revealed no significant differences either in facilities or programs between those institutions to which delinquent children were committed and those for children found in need of supervision. Moreover, in many jurisdictions, children in need of supervision often are placed together with delinquents.

Under the Families With Service Needs proceeding outlined in this volume (see Standards 10.1 through 10.8) placement of a child subject in these proceedings in an institution for delinquents or one in which delinquents are housed is not permitted. However, the family court does have at its disposal dispositions that require affirmative action on the part of a child, such as participation in a treatment program, or that entail some degree of deprivation of liberty, such as removal of the child from the home and placement in a foster home or treatment facility. For this reason, a child before the family court as a consequence of a Families With Service Needs petition has need of independent legal representation.

In many cases, a child becomes involved in a Families With Service Needs proceeding as a result of a petition brought at the insistance of the child's parents. In these cases, there is a special need to provide independent representation to the child, because the child cannot look to its family for advice and assistance, at least with respect to the pending proceeding. In many other cases, the parents are not the formal complainants but are unsympathetic with the child's position. In all these situations, representation by an attorney affords the only source of effective assistance for the child.

Endangered (Neglected or Abused) Child Proceedings

A child who is the subject of Endangered Child proceedings obviously will be affected by their result, although often he or she is not treated as a party to those proceedings. Representation in these proceedings for both the petitioner (usually the district attorney or a social services department lawyer) and the respondent (the child's parent, guardian, or custodian) is desirable. These parties may be expected to present and argue many of the factual and legal issues involved in Endangered Child cases. But their interests do not necessarily coincide with the child's.

The petitioner's view may reflect an institutional perception of social reality that does not adequately consider the strengths even of a marginal family. These institutional considerations also may restrict unnecessarily the dispositional alternatives presented by the plaintiff to the court upon a finding that the child is endangered.

On the other hand, the respondents may be unaware of the child's condition. Or they may be aware but unwilling to admit the seriousness of the situation or to suffer the stigma associated with a finding of neglect or abuse. Their attorney certainly may counsel the parents, guardian, or custodian concerning the child's best interests, but may not properly substitute his or her judgment for that of the client. The attorney ultimately must advocate the client's position, regardless of his or her own views.

Reliance solely on presentation by the adverse parties, therefore, may not guarantee full development of factual matters with respect to adjudicative and dispositional issues. Nor can judges, on their own motion, conveniently investigate questions presented only selectively. Accordingly, independent representation for the child whose future is at issue is highly desirable.

Custody Proceedings

The child subject of custody proceedings is in much the same position as the allegedly endangered child. Contested custody actions typically involve adversarial presentation by the parents or by one parent and some other relative or stranger. Each party seeks to persuade the court that his or her position is correct. Each only offers evidence that supports their position and only challenges the opponent's evidence in a way that appears to help their cause. Counsel for both sides are, of course, required to represent their client's interests as their clients perceive them, limited only by injunctions concerning frivolous claims and knowing use of false evidence. Under these circumstances, many of the facts pertinent to the case are presented selectively, and some not at all.

The same is true, and perhaps even more so, of uncontested custody matters. It is tempting to think that no stranger can improve on the parents' mutual decision with regard to their child's placement. But that notion has no sound basis either in legal theory or in reality. With respect to legal theory, it suffices to say that determination of custody is, by law, a matter to be determined ultimately by the judge and not the parents. And the fact that courts accept without inquiry the parents' decision often is evidence of carelessness rather than informed discretion. The uncontested custody agreement presented to the judge may reflect more the parents' interests, or disinterest, than the child's. In some cases, one parent may, because of unwillingness to be burdened with a child, concede custody to the other, who is substantially unfit to discharge that responsibility. It is not unusual for custody and visitation rights to reflect a painful negotiation process—a matter of bargain and sale—rather than a careful evaluation of the child's needs.

It cannot, therefore, be assumed confidently that the parties to a custody matter or their attorneys will present all the information needed by a court to determine the child's best interests. Participation of independent counsel for the child often will be necessary and should be made available in every case.

Implementation of this standard inevitably will involve expense to the State. But recognition of its importance is increasing. A number of statutes and general decisions now require or encourage appointment of counsel for the child when there is reason for concern about the child's placement. And more and more custodial decisions are being reversed because of the trial court's failure to take this step.

The Milwaukee Family Court has adopted the practice of appointing an attorney as a guardian ad litem to represent the child in every custody matter; this standard recommends the Milwaukee approach. An appointment system that depends on the appearance of special needs is as unreliable in custody cases as it is in Endangered Child cases. A trial judge, particularly in an urban court with a heavy docket, has scant opportunity to determine whether special need exists. And the parties to the custody proceeding may have reason to withhold any evidence that would alert the court to the existence of such circumstances. This is particularly true in uncontested cases. Because the significance of custodial decisions is so great for the children involved, the risks associated with selective assignment of counsel should not be accepted when they can be avoided.

The role of counsel for the child in custody matters generally should be conducted as set forth in Standard 16.2. Where a very young child is involved, counsel must act as a guardian ad litem and advocate the disposition involving the least detrimental alternative for the child. In instances where an older child is the subject of the custody hearing, the legal representative generally should advocate the child's own view.

Termination of Parental Rights Proceedings

A termination of parental rights proceeding has the consequence of permanently severing the relationship between parent and child. The child's interest in this proceeding is much the same as it is in Endangered Child and custody matters, and the reasons for providing independent representation in those cases apply here with equal if not greater force.

Civil Commitment and Mental Retardation Proceedings

Although the Supreme Court has not yet held that the respondent in civil commitment proceedings is entitled to counsel in case of indigency, a number of recent Federal and State court decisions have come to that conclusion. *In re Gault,* 387 U.S. 1 (1967), also seems to make clear that the characterization of a matter as civil is not in itself determinative of the right to counsel. The actual nature and consequences of proceedings rather than their labels are the critical elements for this purpose. Since effects of civil commitment can include deprivation of liberty for the remainder of the respondent's life, it seems necessary and appropriate to provide legal assistance for the respondent in such cases.

It is also significant in this connection that, at least one court has concluded that the right to counsel will not be satisfied by appointment of a guardian ad litem for the respondent, since "the guardian does not view his role as that of an adversary counsel and thus cannot take the place of counsel unless his role is restructured." [*Lessard* v. *Schmidt*, 349 F. Supp. 1078, 1079 (E.D. Wis. 1972).]

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2. Comment, *Seton Hall Law Review*. Vol. 6 (1975).

3. *Dees* v. *Dees*. 41 Wis. 2d 435, 164 N.W. 2d 282 (1969).

4. *Edwards* v. *Edwards*. 270 Wis. 48, 70 N.W. 2d 22 (1955).

5. *Ford* v. *Ford*. 191 Neb. 548, 216 N.W. 2d 176 (1974).

6. Freed & Foster, "The Shuffled Child & Divorce Court." *Trial*. Vol. 10, May/June 1974, p. 26.

7. Hansen, "The Role and Rights of Children in Divorce Actions," *Journal of Family Law*. Vol. 6, 1966, p. 1.

8. *Heryford* v. *Parker*. 396 F. 2d 393 (10th Cir. 1968).

9. *In re Barnard*, 455 F. 2d 1370 (D.C. Cir. 1971).

10. *In re Raya*, 255 Cal. App. 2d 260, 63 Cal. Rptr. 252 (1967).

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12. Isaacs, Jacob L. "The Role of the Lawyer in Representing Minors in the New Family Court," *Buffalo Law Review*. Vol. 12 (1963).

Related Standards

The following standards may be applicable in implementing Standard 16.5:

8.2 Family Court Structure
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.3 The Role of Counsel for the Incompetent Client
16.4 The Role of Counsel Appointed Guardian Ad Litem
16.7 Stages of Representation in Family Court Proceedings
16.12 Communications With Youthful Clients and Witnesses

Standard 16.6

Representation for Parents in Family Court Proceedings

The parent, guardian, or custodian of a child alleged to be endangered should have the right to legal assistance, without cost if necessary, throughout those proceedings. The parent, guardian, or custodian of a child alleged to be delinquent or the parent, guardian, or custodian involved in a Families With Service Needs proceeding should have the right to legal counsel, without cost if necessary, at the dispositional stage of those proceedings when it appears that their affirmative participation will be required in the dispositional order or plan.

Commentary

The role properly allocated to parents in family court proceedings is complex. It is apparent that they may have important interests at stake, because they may be deprived of the custody of their children for a substantial period of time. At the same time, the relative strength of parental interests and the devices to protect their rights vary according to the nature and specific consequences of the proceeding. It is also true that the costs associated with parental participation differ according to the proceedings and must be taken into account.

In Endangered Child matters, the parents are the formal respondents charged with misconduct. They always are accorded party status and, as such, must be afforded an opportunity to be heard and to examine evidence against them. Although Endangered Child proceedings traditionally have been characterized as civil rather than criminal, their nature and consequences are so grave that extension of legal assistance to parents charged with neglectful behavior is required.

The parent's right to the custody of a child has been deemed "essential" and among the "basic civil rights of man" by the Supreme Court. And a number of State and lower Federal courts have held that, when the State seeks to interfere with that custodial interest, there is a constitutional responsibility to make counsel available to the respondent-parent. For this purpose, the fact that Endangered Child cases may formally be denominated civil is not of significance.

> [W]hether the proceedings be labelled "civil" or criminal, it is fundamentally unfair, and a denial of due process of law for the State to seek removal of the child from an indigent parent without according that parent the right to the assistance of court-appointed and compensated counsel. . . . Since the state is the adversary . . . there is a gross inherent imbalance of experience and expertise between the parties if the parents are not represented by counsel. The parent's interest in the liberty of the child, in his care and control, has long been recognized as a fundamental interest. . . . Such an interest may not be curtailed without a mean-

ingful opportunity to be heard, which in these circumstances includes the assistance of counsel. [*Cleaver* v. *Wilcox*, 40 *U.S. Law Week* 2658, 2659 (U.S.D.C. NO. Calif., March 22, 1972).]

State legislatures, as well as courts, have increasingly recognized the need for providing counsel to parents in Endangered Child (neglect and abuse) cases. This standard expressly supports this requirement.

The standard also provides that, in certain circumstances, a parent whose child is adjudicated delinquent or the subject of a Families With Service Needs proceeding should be accorded the right to assistance of counsel, including appointed counsel in case of indigency. That right should not, however, be extended to all parents at all stages of delinquency and Families With Service Needs matters. In most of these proceedings, it is the child's behavior that is the subject of the petition. The parent's actual interest in such cases may range from active support for the petition to strong support of the child's position.

When the parent supports or acquiesces in State intervention, he or she is not seeking to assert an interest in the child's custody and, therefore, no strong reason exists for allowing the parent's participation except, of course, as a witness. The right to participation should be recognized only when the parent desires to protect an interest in the child's custody and companionship. But in these cases, the parent's interest is almost invariably identical to that of the respondent. Both seek to avoid an adjudication of delinquency or Family With Service Needs and any consequent intervention in the parent-child relationship. Under these circumstances, the child's right to counsel and participation seems sufficient protection for the parent's interests as well. And while the child's attorney may not formally serve as the parent's representative, his or her advocacy will do much to protect the parents from curtailment of their right. Moreover, introduction of an independent role and counsel for the parent will encumber and complicate these proceedings substantially. The risk of confustion, should parent and child pursue different defense strategies, is apparent. And it is also likely that these proceedings will become more costly and time-consuming if tripartite advocacy is involved.

There are, however, circumstances when a parent is directly affected by a court's order and the child's interests do not coincide with the parent's. At disposition, the court may require some form of affirmative parental participation in the dispositional plan. Because such an order may be the only alternative to commitment to an institution, the child ordinarily will favor it. But the parent may not be similarly inclined. Thus, it seems appropriate to provide independent legal representation to a parent who may be subject to obligations because of a dispositional order. For example, legal representation should be provided to the parent when the parent will be required to pay restitution for the child's wrong or to participate in treatment programs. In some cases, satisfaction of this standard will involve continuance of the proceeding, since the likelihood that parental participation will be required may not appear until all the evidence has been presented during the dispositional hearing. An adjournment to allow appointment of counsel and preparation of the parent's case may result. But that delay, like the expense of additional counsel at this stage, is a cost that should be accepted in order to insure fairness to the parent.

In cases where it is alleged, under the Families With Service Needs jurisdiction of the family court, that parents have abused their lawful parental authority, it may be that they should be afforded counsel in the adjudicatory as well as dispositional stage of the proceedings, since, in such cases, their behavior is the primary subject of the petition.

References

1. *Crist* v. *New Jersey Division of Youth and Family Services*, 128 N.J. Super 402, 320 A. 2d 203 (L. Div. 1974).

2. *Danford* v. *State Department of Health and Welfare*, 303 A. 2d 794 (Maine, 1973).

3. *In re B.*, 30 N.Y. 2d 353, 334 N.Y.S. 2d (1972).

Related Standards

The following standards may be applicable in implementing Standard 16.6:

8.2 Family Court Structure
16.2 The Role of Counsel in the Family Court
16.7 Stages of Representation in Family Court Proceedings

Standard 16.7

Stages of Representation in Family Court Proceedings

Except as provided in Standard 16.6, legal representation should be made available at the earliest feasible stage of family court proceedings. Each State at least should adopt procedures whereby counsel can be appointed:

1. At the intake stage where the juvenile is not detained; and

2. At the judicial detention hearing stage where the child has been removed from the home.

Legal representation should continue throughout the family court proceedings and, if necessary, through postdispositional matters that may change the level of deprivation of liberty or the kind or amount of treatment the juvenile receives, such as proceedings to determine or change the place or course of treatment or to revoke probation or parole.

Commentary

These standards view as desirable and important legal representation in all proceedings that concern the custody, status, or liberty of a child. Provision of counsel at the earliest feasible stage of these proceedings is an important concomitant of this view.

Many courts, particularly in urban areas, have adopted an intake or preliminary inquiry procedure, in which court officers—usually probation department staff—determine whether complaints require formal judicial treatment or may be resolved more appropriately by informal devices. Nationally, more than half of all cases referred to juvenile courts are disposed of at intake. In a number of jurisdictions, as many as 80 percent of all juvenile cases are disposed of at this stage.

It should be recognized that informal disposition may mean a number of things. In some cases, it may involve nothing more than recognition that the complaint was ill-founded and should not be pursued. In others, there may be informal counseling and dismissal of charges, and in still others, the respondent may be placed on informal probation or made subject to a consent decree, requiring supervision and perhaps treatment as a condition of nonreferral to court.

These intake procedures clearly involve important consequences for the respondent. On the one hand, a decision to resolve the matter informally could spare the respondent an adjudication of delinquency and its accompanying socially harmful label and risk of removal from the home. On the other hand, even a nonjudicial disposition may restrict the respondent's liberty to much the same extent as formal probation. In view of the significance of these decisions, legal representation should be made available as early as possible in these proceedings.

The significance of detention hearings and their consequences for the respondent also merit that legal representation be made available as early as possible. These hearings often must be held within a very short time after a child has been taken into custody or placed in shelter care. The fact that such preadjudicative removal from the home is always considered a temporary expedient does not diminish its importance. Even a brief separation can be significant when young children are placed into shelter care in connection with Endangered Child proceedings. For an older child, detention prior to delinquency or supervision hearings is also a serious matter. Stays of a month or longer are too common to be ignored, and the opportunity to assist in preparing a defense may be compromised or lost. In addition, detention of the respondent inevitably produces publicity within both school and community and may lead to adverse perceptions by teachers, employers, and peers. Accordingly, counsel should be available at the judicial detention hearing stage to investigate the propriety and necessity for pretrial removal from the home and to advocate avoidance or termination of detention if the client so desires.

The need for representation at the initial stages of family court proceedings is fundamental to the need to provide counsel at all. But it should be emphasized that this need does not end in all cases with entrance of a final dispositional order. Legal representation also is needed at the key decision points that sometimes occur after disposition.

The client may be entitled to appeal the trial court decisions or to seek some other form of postconviction relief. In some cases, the initial disposition may expressly provide for periodic review of the order entered. There also may exist some form of relief requiring affirmative action such as a petition to modify a custodial order or to seal court records. In many cases, once a respondent has been committed to an institution, authority remains to transfer him or her to another juvenile institution or, in some States, to an adult penal institution. In these situations, a hearing may be required. Moreover, the appropriateness of treatment provided under the original commitment order may be subject to review at some point. Some juvenile codes now include some notion of a right to treatment, usually in very general terms. Also, constitutional bases for reviewing the form of treatment provided are also being asserted with increasing frequency.

The Supreme Court has affirmed repeatedly the value of counsel on appeal. And while practices concerning appointment of attorneys in postconviction proceedings vary considerably, the utility of their participation generally is conceded. When relief is sought from official action related to the place or course of treatment, even adult inmates typically are unaware that the action is subject to challenge and are ignorant of the grounds and procedures for filing a complaint.

The importance of providing minors legal services at postdispositional stages is at least at great as it is for adults. This is true not only because of their youth and inexperience but also because they have been conditioned not to question adult decisions. In view of the juvenile justice system's traditional emphasis on the future well-being of the child and constructive rehabilitation, there is special need to insist on care in the provision of treatment. In many cases, this cannot be achieved without the informed participation of counsel for the child.

Finally, legal assistance also is valuable when the conditional liberty of a client released on probation or parole is revoked. The Supreme Court has recognized that, in certain circumstances, appointment of counsel may be required by the Constitution.

> Presumptively, it may be said that counsel should be provided in cases where, after being informed of his right to request counsel, the probationer or parolee makes such a request, based on a timely and colorable claim (i) that he has not committed the alleged violation of the conditions upon which he is at liberty; or (ii) that, even if the violation is a matter of public record, or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present. [*Gagnon* v. *Scarpelli*, 411 U.S. 778, 790 (1973).]

The ABA goes even further in stating, "The Court should not revoke probation without an open court proceeding attended by the following incidents . . . (ii) representation by retained or appointed counsel. . . ." [American Bar Association. *Standards Relating to Probation*, 35.4, New York: American Bar Association/Institute of Judicial Administration, 1970]. While the Supreme Court has not passed on the applicability of these rules to cases involving juveniles, there is no sound reason for denying children these minimal safeguards.

References

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4. Goldstein, Joseph; Freud, Anna and Solnit, Albert. *Beyond the Best Interests of the Child.* New York: The Free Press, 1973.

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7. *In re Wilson*, 264 A. 2d 614 (Penna. 1970).

8. *Lollis* v. *New York State Department of Social Services*, 322 F. Supp. 473 (S.D.N.Y. 1970).

9. *State* v. *Pinkerton*, 186 Neb. 225, 182 N.W. 2d 198 (1970).

Related Standards

The following standards may be applicable in implementing Standard 16.7:

12.4	Juvenile's Initial Appearance in Court
12.11	Detention Hearings
13.2	Acceptance of an Admission to a Delinquency Petition
14.7	Formal Dispositional Hearing
14.21	Modification of Dispositional Orders
16.1	Juvenile's Right to Counsel
16.2	The Role of Counsel in the Family Court
16.5	Representation for Children in Family Court Proceedings
16.6	Representation for Parents in Family Court Proceedings.

Standard 16.8

Training and Qualification of Lawyers for Family Court Practice

Adequate training of lawyers for family court representation is mandatory for the proper functioning of family courts. All members of the legal community, including courts, legal aid and defender agencies, educational institutions, and private practitioners share the responsibility for insuring that attorneys are competent to provide legal assistance in this forum and that competent attorneys are made available to persons subject to family court proceedings.

1. Educational institutions, bar associations, and other legal professional groups should provide suitable undergraduate and postgraduate curricula relating to representation in family court matters. These programs should include both legal and nonlegal courses relevant to family court representation. Other methods for training lawyers, such as apprenticeship programs with experienced counsel, also should be devised and encouraged.

2. In selecting attorneys for appointment in family court proceedings, the responsible authority should carefully evaluate each lawyer's competence, taking into account his or her educational background and experience in family court or related practice.

Commentary

It is common knowledge that juvenile and family court clients typically are poor and members of minority groups. Representation that is significant can be provided only if counsel is readily available, without cost, and this availability is generally known. Regrettably, this is not always the case. In some jurisdictions, few juveniles receive legal assistance throughout the proceedings because there is an inadequate pool of capable attorneys. Defender agencies and assigned counsel systems often are understaffed and lack adequate supporting services to meet even the current demands of delinquency caseloads. And as the need for legal assistance in other proceedings gains recognition and acceptance, legal services will become even more severely strained unless some careful planning takes place.

Moreover, the need is not merely for more lawyers to participate in family court matters, but for more competent lawyers. Few attorneys who do not serve on legal aid or defender staffs have substantial experience or special knowledge in cases involving children. General trial skill is, of course, an important component of representation before the family court, but, as with criminal practice, familiarity with specialized substantive and procedural law and nonlegal information also is important.

As an example, juvenile cases—far more than criminal prosecutions—routinely involve social scientific and psychological evidence. Thus, counsel must be very familiar with the preparation and interpretation of such information. In addition, interviewing and examining youthful clients and witnesses typically involved in juvenile matters present special problems. Informed evaluation of the various dispositional programs available to the court after an adjudication is entered also requires a certain amount of expertise. Indeed, a persuasive case can be made for requiring that lawyers have demonstrated qualifications as specialists in this area.

Responsibility for training attorneys for family court representation will properly fall, in large part, to educational institutions and to the bar itself. The former should make available regularly to law students legal and nonlegal courses that relate to matters of family court practice. Clinical programs, when supervised properly and benefited by access to supporting services, can contribute significantly to the training process. There is a noticeable trend among law schools to meet this demand for specialization. This trend should be encouraged and strengthened by inclusion of nonlegal material and counseling components in curricula.

But this development in institutional legal education will not meet fully the requirements for training attorneys for family court practice. It comes too late. And for the great majority of lawyers, even those with formal education or practical familiarity in this area, regular access to recent information and new approaches is important. Programs of postgraduate education should be made available regularly, and the impetus for continuing legal education in family court representation necessarily must come from its users, the practicing bar.

Methods for expanding and improving practices in family court also should be investigated. Programs requiring inexperienced counsel to apprentice with experienced and expert attorneys have been proposed frequently and, at least in some jurisdictions, have been implemented for criminal practice. Apprenticeship is, of course, a familiar training procedure within legal and defender agencies, large firms, and in England. It could be used more widely and profitably in many courts that draw assigned counsel from younger members of the bar.

This standard also recommends that, to the greatest extent possible, the agencies responsible for appointing counsel to represent indigent persons in family court matters consider the issues discussed above. The poor are no less entitled to competent legal assistance than the rich, and this entitlement is not satisfied when they are assigned attorneys who are neither knowledgeable nor experienced in the forum. Special attention is required when the client is very young and the attorney may have to participate directly in the formulation of a plan that will profoundly affect the client's future.

As far as possible, jurisdictions should establish criteria for appointment of attorneys that reflect the knowledge and experience required for authentic competence in family court matters, and they should seek to insure availability of a sufficient pool of attorneys who meet those criteria. Furthermore, jurisdictions should take great care to insure that attorneys with inner-city backgrounds, minority attorneys, and attorneys from differing ethnic origins are not overlooked in this appointment process, and that employment in local legal aid and defender agencies reflects a policy of affirmative action.

Related Standards

The following standards may be applicable in implementing Standard 16.8:

8.1 Level and Position of Court Handling Juvenile Matters
8.2 Family Court Structure
16.2 The Role of Counsel in the Family Court
16.9 Organization of Defense Services
16.10 Procedures for Assignment and Compensation of Appointed Counsel
16.11 Adequacy of Compensation for Attorneys in Family Court Matters
16.12 Communications with Youthful Clients and Witnesses

Standard 16.9

Organization of Defense Services

Where possible, a coordinated plan for providing representation that combines public defender and assigned counsel systems should be adopted.

Commentary

Where circumstances allow, a combined public defender/appointed counsel system is preferred over a system that places sole reliance on either plan for providing legal services. Defender agencies bring special expertise to family court representation, particularly in delinquency, Families With Service Needs, and civil commitment cases. They also may conveniently provide or administer the supporting services that are important to representation in this forum. At the same time, entire reliance on a defender agency sharply limits the number of lawyers who are knowledgeable about the operation of the juvenile justice system. This situation is generally undesirable. With juvenile matters as with criminal cases, broad participation in and general familiarity with the forum are important to the vitality of the justice system itself. Moreover, a defender agency alone inevitably will encounter situations where it cannot represent all eligible defendants because the interests of one conflict with the interests of others. Accordingly, an assigned counsel plan must be available to provide legal assistance to indigent persons who are for some reason ineligible for public defender services.

A representation system that combines the services of both public defender and assigned counsel should be adopted and closely coordinated in order to promote efficiency and to permit supervision of the quality of representation. This responsibility could be placed with the defender agency itself or, if that is not feasible, with an independent State bar association committee. (See Standard 16.10.)

Reference

1. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 16.9:

8.2 Family Court Structure
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.10 Procedures for Assignment and Compensation of Appointed Counsel
16.11 Adequacy of Compensation for Attorneys in Family Court Matters

Standard 16.10

Procedures for Assignment and Compensation of Appointed Counsel

Where possible, the public defender office or a State bar association committee should have the responsibility for compiling and maintaining a panel of attorneys eligible for appointment in family court matters. The trial court should have the right to add attorneys not placed on the panel by the public defender office or bar committee. Appointments should be made from this panel according to a systematic and well-publicized plan.

Commentary

These standards favor adoption of an assigned counsel system in conjunction, where possible, with a pubic defender plan. However, in agreement with the National Advisory Commission's standards for criminal cases, this standard recommends that primary responsibility for appointment and compensation of assigned counsel rest with some agency other than the courts. (National Advisory Commission on Criminal Justice Standards and Goals. *Courts*, Standard 13.15. Washington, D.C.: Government Printing Office, 1973.)

The reasons for applying this approach to criminal cases apply with equal, if not greater, force to family court proceedings. Some traditional juvenile or family court judges strongly disapprove of zealous advocacy and use the appointment power as a device for controlling counsel's professional behavior. As one study of California juvenile courts reported,

> Judges have some coercive power [over counsel's conduct] especially where attorneys are assigned by the court from a local panel. Here, the judge's action can speak louder than words. That court assignments are sometimes made with an eye to controlling the conduct of attorneys in hearings was confided in these words:
>
> > '[Y]ou have to be careful on your appointment of an attorney because he may be energetic; he may become adversary here and you will have problems.'
>
> [Edwin Lemert, *Social Action and Legal Change: Revolution within the Juvenile Court* 199, Aldeen Press (1970).]

The same point can be made with respect to compensation and reimbursement. If compensation or reimbursement is routinely denied for certain types of investigation or practice, the power to control finances can, in a real sense, become tantamount to control over appointment itself. In addition, placement of all related responsibilities within a single agency generally should promote efficiency in the administration of the program.

Where there is a public defender agency with broad experience in family court representation, it would seem appropriate to assign that office the duty to maintain a current list of attorneys who are qualified for and willing to accept appointments in family court matters. Provision of adequate resources to the agency must, of course, accompany the allocation of responsibility. In some jurisdictions, however, there may be no public defender office, or the office may participate only occasionally or selectively in family court proceedings. Where this is the case, the State bar association should accept responsibility for organization and operation of the assigned counsel system.

The trial court also should be entitled to add names to the panel compiled by the defender or State bar agency. This option serves as a form of appeal for lawyers who have been excluded from the list of attorneys eligible for appointment. It also allows for the use, in certain cases, of attorneys with special skills but who generally are not willing to accept appointment. However, direct judicial participation in the activities of the agency responsible for operating the assigned counsel system should be limited to these exceptional circumstances.

Any plan for assignment and compensation of attorneys must be well-publicized and systematic. Ad hoc and closed appointment methods have proved inadequate to promote wide and expert representation of indigent persons and tend to appear unfair both to the bar and to the public. A system that appoints members of the panel in a publicized rotation is no more difficult to administer than nonsystematic selection from a panel. And it is far more likely to promote the reality and appearance of fairness in the procedure.

Related Standards

The following standards may be applicable in implementing Standard 16.10:

16.8 Training and Qualification of Lawyers for Family Court Practice

16.11 Adequacy and Compensation for Attorneys in Family Court Matters

Standard 16.11

Adequacy of Compensation for Attorneys in Family Court Matters

Lawyers appearing in family court matters, however engaged, should receive reasonable compensation for their time and services according to prevailing professional rates and full reimbursement for expenses reasonably necessary to provide competent and thorough representation. Public defender attorneys should be paid a salary equivalent to that paid other government attorneys with similar qualifications, experience, and responsibility.

Commentary

Systematic and competent legal representation in family court matters cannot be insured unless attorneys are compensated adequately for their time and services. Nor can thorough investigation and preparation of family court cases be expected unless counsel receives reimbursement for expenses that are reasonably necessary in the course of representation. As the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice observed in 1963, "[A] system of justice that attempts . . . to meet the needs of the financially incapacitated accused through primary or exclusive reliance on the uncompensated services of counsel will prove unsuccessful and inadequate. . . . A system of adequate representation therefore should be structured and financed in a manner reflecting its public importance. . . ." The National Advisory Commission on Criminal Justice Standards and Goals for the Courts take the same position.

In appointed counsel systems, compensation for attorneys should be determined according to locally prevailing standards for full and competent professional services in cases of similar complexity. In most instances, compensation should be based on reasonable charges made by private practitioners for these services rather than on current fixed levels, which often are grossly inadequate. Maximum statutory fees of $75, $100, and $150 exist, but clearly they cannot satisfactorily compensate the careful treatment of even the most routine cases. Moreover, and more importantly, fee schedules of this kind may well lead assigned counsel to treat each case as routine. Consequently, an appointed attorney may be inclined to forgo pretrial investigation, counseling, motion practice, or even significant participation at the adjudication and dispositional stages.

Public defender staff are no less entitled to reasonable compensation at prevailing professional rates. While government agencies cannot, in the long run, offer salaries comparable to the income earned by a successful private practitioner, parity could be maintained during the early years of an attorney's professional career. The value of doing so was recognized by the National Advisory Commission's report on *Courts:* "[B]y remaining economically competitive for at least five years the defender office can provide the incentive for good attorneys to remain long enough to experience those satisfactions that may outweigh the financial advantages of other career patterns and persuade the attorneys to remain despite the inevitable income differential." After that time, defender salaries should be equivalent to those paid other government attorneys with similar qualifications, experience, and responsibility.

Reference

1. National Advisory Commission on Criminal Justice Standards and Goals. *Courts.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 16.11:

15.2 Family Court Prosecution Services—Full-Time Function; Salary

16.8 Training and Qualification of Lawyers for Family Court Practice

16.10 Procedures for Assignment and Compensation of Appointed Counsel

Standard 16.12

Communications with Youthful Clients and Witnesses

In communicating with a youthful client or witness, lawyers should accommodate their expectations to the age and background of their client. It is proper for lawyers to question the credibility of their client's statements or those of any other witness. However, they may not suggest, expressly or by implication, that their client or other witness prepare or give, on oath or to the lawyer, a version of the facts that is in any respect untruthful, nor may they intimate that the client should be less than candid in revealing material facts to the attorney.

Commentary

Interviewing Youthful Clients and Witnesses. Interviewing children often is difficult, and as a result, many lawyers readily conclude that youthful clients and witnesses have poor memories or are intentionally dishonest. These views reflect a mistaken belief that poor, minority group youths can remember, interpret, and then share their thoughts with lawyers or that an atmosphere of trust and respect will exist from the outset. Children, and particularly children who are poor and members of a minority group, often bring suspicion and even hostility to their relationships with lawyers. This may be even more pronounced in dealings with attorneys who are not members of a minority group.

The mistrust is not always one-sided. Intentionally or unintentionally, some lawyers express suspicion of or hostility toward the perceived values and manners of minority group members and young persons. But whatever side the mistrust is on, these initial barriers to communication between attorney and client must be recognized before they can be overcome.

In addition, young children perceive, interpret, and describe events differently than adults. They usually have difficulty in seeing the temporal and causal relations between events. Very young children, for example, tend to lack a sense of time and often cannot order events chronologically or judge duration accurately. Moreover, children, perhaps even until they are 11 or 12 years old, often do not understand causal relationships in physical matters well. They typically view events simply as consequences of will or fail to see intermediate steps between apparent cause and effect.

A further barrier to effective child-lawyer communication exists when the client either lacks well-developed verbal skills or speaks in idioms unfamiliar to the attorney. Difficulty in understanding the child's narration may lead counsel to conclude that the client is unintelligent, intentionally rude, or disingenuous when none of these is in fact true.

Lawyers conferring with young clients must take these circumstances into account when determining their expectations and interviewing techniques. But the setting of the interview also is important. Conferences in the courthouse shortly prior to appearance tend to be marked by noise, milling about, and pressure. Moreover, young and ghetto children typically are unused to formal, prolonged discussions with adult authority figures, and lengthy interviews may prove futile and frustrating to both client and attorney.

Children also tend to be highly suggestible on the one hand and highly manipulative on the other. Therefore, they will often try to read adults in order to give what seems to be the correct answer to questions concerning their behavior. Although such responses appear dishonest to counsel, they are relatively common and intuitive reactions based on previous experience with parents, teachers, and other perceived figures of authority. The use of nonlegal vocabulary and sensitivity to nonverbal conduct also are useful in interviewing young clients.

Questioning the Credibility of a Client or Witness

It is an accepted part of interviewing practice for counsel to subject a client's statements to probing inquiry in order to test the truthfulness of those statements and to assess the client's effectiveness as a witness at trial. Thus, it is entirely proper for an attorney to suggest that the story given is inconsistent or even incredible and to stress the importance of full and candid disclosure of all material facts and circumstances. At the same time, the lawyer's duty is to extract the facts from the witness, not to pour them into him. But in view of the great suggestibility of youthful clients, attorneys must exercise special care to insure that their questioning does not lead to manufacture of a more plausible or favorable—but untruthful—story. It also is improper for an attorney to intimate that if the client knows incriminating information, he or she should conceal it. No valid purpose of the adversary system is served by such calculated ignorance of the facts. Moreover, it often may lead to surprise at trial or ignorance of potential lines of defense.

References

1. Institute of Judicial Administration/American Bar Association. Project on Standards for Criminal Justice. *Standards Relating to the Prosecution and the Defense Function*. New York: Institute of Judicial Administration, 1971.

2. Amos, W., and Grumbs, J. *Counseling the Disadvantaged Youth*. (1968).

3. Drinker, Henry. *Legal Ethics* 86 (1953).

4. Flapan, D. *Children's Understanding of Social Interaction*. (1968).

5. Freemon, Harop, and Weinhofen, Henry. *Clinical Law Training* (1972).

6. Piaget, Jean. *The Child's Conception of Physical Causality* (1930).

7. Piaget, Jean. *The Child's Conception of Time* (1927).

Related Standards

The following standards may be applicable in implementing Standard 16.12:

9.2 Minimum Age for Family Court Delinquency Jurisdiction
16.1 Juvenile's Right to Counsel
16.2 The Role of Counsel in the Family Court
16.3 The Role of Counsel for the Incompetent Client
16.4 The Role of Counsel Appointed Guardian Ad Litem
16.5 Representation for Children in Family Court Proceedings
16.7 Stages of Representation in Family Court Proceedings
16.8 Training and Qualification of Lawyers for Family Court Practice

Chapter 17

Judicial Officers and Nonjudicial Personnel

INTRODUCTION

Effective operation of the entire system of juvenile justice rests, in large measure, on the competency of judges in the family court. Obviously, skilled judges cannot guarantee the sound administration of justice in the absence of carefully considered laws. But meticulous reforms of laws and procedural rules are of little value unless the bench is staffed by competent jurists. In the final analysis, no single factor weighs so heavily in the success of the juvenile system as the provision of qualified judges. Also, to execute their duties properly, members of the bench must have professionally trained staffs to perform necessary administrative services.

Prestigious groups such as the President's Commission on Law Enforcement and Administration of Justice have noted that juvenile justice has long been handicapped by unqualified or poorly trained judges and administrative personnel. In some jurisdictions the quality of jurists and supporting staff is very high, indeed, but many courts continue to function with low-caliber personnel.

In recognition of these needs, the standards set forth in Chapter 8 began to list measures for improving the status and quality of court personnel. Those standards stipulate, for example, that juvenile matters should be heard in a family division of the highest court of general trial jurisdiction (see Standard 8.1). The standards also direct that family court judges should possess a keen and demonstrated interest in the needs and problems of children and should serve permanent assignments (see Standard 8.4). Finally, Chapter 8 calls for the selection of a supervising judge to coordinate the handling of juvenile and family matters and to improve court administration (see Standard 8.5).

The standards that follow are closely related to those in the earlier chapter. These standards, however, focus specifically on judicial officers and nonjudicial personnel, rather than the structure and organization of the court itself.

First, the standards consider the issue of selecting judges. Where selection is a matter of internal trial court policy, the standards emphasize the importance of criteria leading to an objective evaluation of an individual's competence to serve on the family court. Where selection involves a vacancy that can only be filled by electing or appointing a new judge, the standards endorse the merit plan of judicial selection.

A recurrent theme throughout the standards in this chapter is the need for establishing or upgrading professional training programs and educational efforts. Effective processing and handling of juvenile matters require a judge and staff who are competently trained not only in juvenile law itself, but also in the important findings of related disciplines, including psychology, social work, and child development. Thus, it cannot be routinely assumed that even those judges and staff members who are fully qualified to work in other areas of the law can function effectively in juvenile justice. Specialized training should be mandatory and should occur on a continuing basis.

The standards in this chapter also highlight the need for upgrading the qualifications of nonjudicial personnel and improving the compensation of judges and administrative staff. Energetic improvements in all these areas are vital to the juvenile system.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

2. National Council of Juvenile Court Judges. *Juvenile Court Evaluation Report*. Reno: National Council of Juvenile Court Judges, 1974.

3. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

Standard 17.1

Selection of Judges

The selection of judges for the family court should be governed by the following procedures:

1. Where the selection entails an assignment to the family court as a matter of internal trial court policy, the assignment should be made by the presiding judge without regard to seniority or any other factors that may detract from the objective evaluation of an individual's competence to serve on the family court; and

2. Where the selection involves a vacancy that can only be filled by the election or appointment of a new judge, the merit plan of judicial selection should be used. The judicial nominating commission should include representatives from the judiciary, the general public, and the legal profession who have experience in juvenile justice.

Commentary

No single factor is as important to the effective operation of the juvenile justice system as the quality of jurists on the family court bench. Family court judges should be lawyers who possess a keen and demonstrated interest in the needs and problems of children and families. Also, service on the family court should be a permanent assignment (see Standard 8.4), and the methods of selecting judges should assure the provision of high-quality judicial officers.

This standard outlines procedures for selecting judges in two situations. First, where the selection entails assignment to the family court as a matter of internal trial court policy, the standard directs that the assignment should be based solely on an individual's competence to serve on the family court.

Traditionally, juvenile court assignments have had low status in the eyes of the bench and bar. This lower status has in part been perpetuated by the judiciary, which in some cases treats juvenile matters as a low priority. For example, judges may be assigned to juvenile matters because they are new to the bench or because they have not performed well in other areas. Or judges may, as a matter of routine, be required to spend time on juvenile matters, regardless of their qualifications for handling such cases.

These selection procedures are ill-considered. The majority of adult felons begin their criminal careers as juvenile delinquents, and they should be exposed at an early stage to members of the judiciary who are best qualified to hear their cases. If we are to secure such judges, assignment criteria should be based solely on professional qualifications and interest in serving on the family court.

In cases where selecting a judge is not a matter of internal assignment but involves filling a vacancy through the process of selecting a new judge, the standard endorses the merit plan. Under this procedure, initial appointments are made by the governor from a panel of nominees submitted by a nonpartisan nominating commission. Following a specified period of service, the appointed judge then runs for election on his or her record rather than against another candidate. A judge can then be reelected for successive terms by the same procedure. This approach has been widely supported as superior to the direct election of judges, on the grounds that the approach helps to secure candidates with better qualifications.

The judicial nominating commission should include representatives with experience in juvenile justice from the judiciary, the general public, and the legal profession. These representatives should be well versed in the unique character and needs of the family court, and the nominating commission should maintain a separate list of potential nominees possessing the requisite qualifications for service on that court.

References

1. Kobetz, Richard and Bosarge, Betty. *Juvenile Justice Administration*. Gaithersburg, Maryland: International Association of Chiefs of Police, 1973.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

3. Sheridan, William. *Standards for Juvenile and Family Courts*. (Children's Bureau Publication No. 437-1966.) Washington, D.C.: Government Printing Office, 1966.

Related Standards

The following standards may be applicable in implementing Standard 17.1:

8.4 Family Court Judges
8.5 Supervising Judge

Standard 17.2

Training and Compensation of Judges

Each State should require all new judges to attend training programs and also should require attendance by other judges in continuing judicial educational programs, with emphasis on specialized training in areas relevant to juvenile and family matters.

In a related matter, family court judges should be compensated at the same level as other judges of the highest court of general jurisdiction.

Commentary

Unlike most professions, jurisprudence has little preservice training available. The majority of judges receive their initial training on the job, although greater numbers are attending local, State, and national training programs. Given the sensitivity of family and juvenile matters, it is critical that judges hearing those matters begin their tenure well prepared.

The goal of this standard is to establish training efforts, either on a statewide basis or at a national center, under the broad umbrella of the trial judge but including subject matter tailored to family court concerns. Such a curriculum should involve instruction on case and statutory law, family court rules, judicial philosophy, mock trials, forms, the juvenile justice process, the caseflow process, counseling and rehabilitation services, and the causes of delinquency and family breakdown. Findings from the disciplines of sociology, psychology, and child development should receive particular emphasis, since many judges may lack prior training in these fields. Judges also should be sensitized to the important influences of minority cultural values on the dynamics of family behavior.

Training programs should be available on an ongoing basis and backed by a small permanent interdisciplinary staff that effectively uses both current and retired judges and other individuals recognized as leaders in their respective fields. Where resources are not available to establish such a training effort, cooperative programs with established national training institutions should be fully explored.

Any statewide training program should be supplemented by training materials that are essentially local in nature. These materials should be designed to familiarize new family court judges with all relevant local procedures and practices. Also, the State judicial authority can greatly enhance the judge's educational process by developing and maintaining manuals for all new family court judges.

Each new judge should visit every facility and program that may be used as a dispositional alternative, and arrangements should be made to familiarize new judges with law enforcement, probation, and social service personnel. The local orientation procedures under this standard should be mandatory and should take place within the first 3 months of a judge's tenure.

This standard also recognizes the need to train judges after as well as before they take the bench. Many States are making great strides in developing continuing education programs for judges. These efforts should recognize the special needs of judges hearing juvenile matters and should structure a specialized curriculum accordingly. In order to maintain the quality of judicial education, ongoing programs should be considered as part of a judge's duties and within the scope of day-to-day responsibilities, rather than as vacation time. This also holds true for participation in national programs.

Finally, the standard directs that family court judges should be compensated at the same level as other judges of the highest court of general jurisdiction. Adequate compensation is critical in enabling the family court division to compete effectively for qualified judges. (See also the commentary to Standard 8.1.)

References

1. American Bar Association, Section of Judicial Administration. *The Improvement of the Administration of Justice*, 1971.

2. American Bar Association, Commission on Standards of Judicial Administration. *Standards Relating to Court Organization*, 1974.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. U.S. Department of Justice, 1973.

4. President's Commission on Law Enforcement and Administration of Justice. *The Courts*. Washington, D.C.: Government Printing Office, 1967.

5. Smith. *A Profile of Juvenile Court Judges in the United States*. Reno: National Council of Juvenile Court Judges, 1974.

Related Standards

The following standards may be applicable in implementing Standard 17.2:

8.1 Level and Position of Court Handling Juvenile Matters
8.2 Family Court Structure
8.4 Family Court Judges
15.6 Family Court Prosecution Services—Staff Training
16.8 Training and Qualification of Lawyers for Family Court Practice
17.1 Selection of Judges

Standard 17.3

Interim Use of Other Judicial Officers

Where commissioners and/or referees continue to be used to hear family court cases, they should meet the same qualifications as a judge of the family court, and should be subject to the same standards on discipline and removal, training and education, demeanor, and assignment.

Secondly, plans for phasing out commissioners and referees should be developed consistent with the maintenance of an adequate level of service in the family court.

Commentary

Only full-time judges should sit on the family court (see Standard 8.4), but many jurisdictions may be unwilling or unable to implement this position. This standard is intended to address the interim situation.

Regardless of the reasons for using commissioners to hear juvenile matters, the authority of the commissioner in many States is currently equal to that of a judge. As long as these individuals act under the auspices of the court, whatever the scope of their responsibilities, they are essentially acting as judges from the perspective of the defendant. Therefore, jurisdictions authorizing the use of commissioners in the family court should assure defendants that their cases are being heard by individuals with a background equal to that of a judge, in terms of both qualifications and training. Such judicial personnel should also be subject to the same criteria as are applied to judges for assignments, demeanor, discipline, and removal.

This standard also calls for jurisdictions that continue to use commissioners/referees to develop a plan for their gradual phaseout. In view of the differing situations in individual States, it would be unwise to suggest a single timetable. But if the first part of this standard is implemented, the phaseout could basically become a matter of gradually appointing commissioners to family court judgeships.

References

1. American Bar Association, Commission on Standards of Judicial Administration. *Standards Relating to Court Organization*, 1974.

2. Levin, Mark and Sarri, Rosemari C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* Ann Arbor, Michigan: National Assessment of Juvenile Corrections, 1973.

3. National Council of Juvenile Court Judges. *Juvenile Court Evaluation Report.* Reno: National Council of Juvenile Court Judges, undated.

4. Sheridan, William H. *Standards for Juvenile and Family Courts.* Washington, D.C.: Department of Health, Education and Welfare, 1966.

Related Standards

The following standards may be applicable in implementing Standard 17.3:

8.1 Level and Position of Court Handling Juvenile Matters
8.3 Judicial Proceedings Heard by a Judge

Standard 17.4

Nonjudicial Support Personnel

The family court division should be provided with adequate administrative support staff to meet all the nonjudicial administrative needs of that division. Each jurisdiction should develop staffing standards to assure the provision of such support, written standards delineating the responsibilities of the division's administrative personnel, and clear lines of authority to maintain coordination with the administrative structure of the general trial court.

Commentary

In many instances, a separate division of the general trial court warrants some type of separate and specialized administrative support staff. As juvenile/family law cases often involve a widely different group of laws, forms, procedures, and agencies, a sufficiently large caseload justifies a staff with specialized administrative experience in this area. This staff will not only produce more efficient support services, but also will provide the judges of the family court with a group of administrative personnel familiar with the judges' needs and goals and qualified to help them achieve those ends.

This standard is intended to emphasize the need for providing the family division with adequate support personnel to carry out its responsibilities, while assuring that such staff members are an integrated part of the overall administration of the general trial court structure. Support staff falling within this standard include court administrators, clerks, bailiffs, and legal research personnel.

Many factors affect the decision as to what constitutes adequate administrative support staff for a particular family court; thus no formulas are promulgated here. However, examples of responsibilities for some positions can be given.

A court administrator or deputy court administrator assigned to the family court should, in most instances, provide assistance to the court in the following areas: (1) caseflow and calendar management; (2) budget and fiscal management; (3) personnel management and supervision; (4) space utilization and physical facilities; (5) statistical analysis; (6) planning, research, development, and evaluation; (7) documents and records management; (8) liaison with administrative personnel in other agencies interfacing with the family court; (9) provision of immediate judicial access to competent psychiatric assistance when required; and (10) jury management.

Where legal research assistance is needed in the family court and provisions are made for such a service, the personnel so assigned should have job descriptions that specify the following duties: (1) researching all points of law, both statutory and case, as requested by judges in the course of the cases before them; (2) helping the court develop and formulate legal rules and procedures called for by appellate cases, recent legislation, or the needs of the court; and (3) helping the court prepare benchbooks, updates of social service manuals, and summaries of recent studies in human behavior.

All other support personnel should operate under similarly well-defined job statements that take into account the special needs of the family court. In all such areas, it is urged that all of the judges of the family court be consulted as to their views on such matters.

References

1. American Bar Association, Advisory Committee on Sentencing and Review. *Standards Relating to Probation*. 1970.

2. American Bar Association, Commission on Standards of Judicial Administration. *Standards Relating to Court Organization*, 1974.

3. American Bar Association, Section on Judicial Administration. *The Improvement of the Administration of Justice*, 1971.

4. Law Enforcement Assistance Administration. *National Survey of Court Organization*, 1973.

5. Levin, Mark and Sarri, Rosemari C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. Ann Arbor: National Assessment of Juvenile Corrections, 1973.

6. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

7. National Council of Juvenile Court Judges. *Juvenile Court Evaluation Report*. Reno: National Council of Juvenile Court Judges, undated.

8. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

9. President's Commission on Law Enforcement and Administration of Justice. *The Courts*. Washington, D.C.: Government Printing Office, 1967.

10. Sheridan, William. *Standards for Juvenile and Family Courts*. Washington, D.C.: U.S. Department of Health, Education and Welfare, 1966.

11. Smith. *A Profile of Juvenile Court Judges in the United States*. Reno: National Council of Juvenile Court Judges, 1974.

Related Standard

The following standard may be applicable in implementing Standard 17.4:

17.5 Training and Compensation of Nonjudicial Support Personnel

Standard 17.5

Training and Compensation of Nonjudicial Support Personnel

Every State and local jurisdiction should coordinate the development and maintenance of ongoing education and training programs and materials for the administrative support staff of the family court.

Compensation of nonjudicial personnel should be adequate to attract and retain qualified personnel for the specialized duties inherent in the family court structure.

Commentary

Orientation and training are important at all levels of any system. Given the unique aspects of juvenile/family matters, training should occur both before and during a person's tenure in a staff support position with the family court.

Training programs for support staff should be designed in conjunction with similar programs for jurists, to maximize the communication and interchange of ideas between judges and staff at all levels. The support staff curriculum should focus on the roles and responsibilities of various administrative positions, general principles of court administration, overviews of the administration of justice and its agencies, procedures, and specialized management areas.

In recent years, a number of programs have been developed for training court administrators and support personnel, including many courses offered by colleges and universities. Most of these endeavors have been national or regional in scope, and thus are geared to general rather than specific subject areas. Although general information can be very useful in a local environment, there is always the problem of relating general examples to specific situations or unique dilemmas in a particular jurisdiction. Thus, the State should view general instructional programs as a supplementary, rather than sole, training and education source.

Where special qualifications are required for particular segments of the family court staff, compensation rates should reflect those factors. The family division's ability to compete for qualified staff is in large part dependent upon such staff being carefully selected and adequately compensated during the course of their employment.

References

1. American Bar Association, Advisory Committee on Sentencing and Review. *Standards Relating to Probation.* 1970.

2. American Bar Association, Commission on

Standards of Judicial Administration. *Standards Relating to Court Organization*. 1974.

3. Lewis. "A Teaching Program in a Juvenile Court Setting," *Juvenile Justice*, February, 1975.
4. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: U.S. Government Printing Office, 1973.
5. National Council of Juvenile Court Judges. *Juvenile Court Evaluation Report*. Reno: National Council of Juvenile Court Judges, undated.
6. Sheridan, William. *Standards for Juvenile and Family Courts*. Washington, D.C.: Department of Health, Education and Welfare, 1966.

Related Standards

The following standards may be applicable in implementing Standard 17.5:

8.1 Level and Position of Court Handling Juvenile Matters
17.4 Nonjudicial Support Personnel

Chapter 18
Relationship of the Court to Other Justice and Community Agencies

INTRODUCTION

Although improved court-community relationships have been recommended strongly for all courts, this is especially relevant to family court divisions. Not only are the division's relationships with the general public of great importance, but this court must maintain constructive working relationships with the host of governmental, private community, and social service agencies that have an impact on the lives of court clientele. This court is particularly dependent on law enforcement; the intake, detention, and corrections agencies; and public child welfare services. Implementation of the standards in this volume would organize intake and corrections services within executive agency administration, heighten court reliance upon these particular agencies, and require clear understanding and working agreements.

Certain common ingredients are found in any court that has healthy working relationships with these groups. One of these is the leadership role of the judiciary in determining how these organizations can facilitate the directives of the court. In turn, the court is obligated to avoid unnecessary obstacles to the effectiveness of external service agencies. Another element of productive working relationships is reaching common understandings in a fashion that is timely and prevents misunderstandings. Good communication is a further characteristic. Regular opportunities to work out a shared philosophy of juvenile justice, with each element retaining its independent role, is one more requirement. A skilled court administrative staff is an added requisite.

An effective administrative staff is even more crucial in the family court division. The large case volume in this division, and the removal of the probation function to the executive branch, will place upon the family division administrator certain functions and responsibilities that were performed previously by court chief probation officers or court services directors. The need for an effective family division administrative staff cannot be overemphasized. A skilled court operation minimizes external dissatisfaction with court processes. The division administrator must superintend caseflow, achieve court-agency working agreements, perform a public information and public education role, provide data for legislative bodies, maintain active information on the actual services provided or not provided to court clientele, and perform myriad other tasks.

Recent years have seen a growing judicial concern about the parameters of judicial power. It has become common for judges to review police practices to see that the grounds for arrest, interrogation practices, searches, and other procedures are in compliance with the Constitution, statute, or rule in juvenile cases. Although clarification and compliance with the law are important, the formal adjudication of these issues has frequently strained court-law enforcement relationships. It is believed that these problems can be substantially alleviated through conferences in which police interpretations of legal requirements may be reviewed and commented on by the court. Police guidelines concerning these practices, as well as written criteria governing when a child should be taken into custody, when he should be brought to detention or shelter, and when case referral to the court should be made, can benefit from informal court review. Clearly delineated statutory provisions can avert some interagency tensions, but legislation does not always anticipate unusual factual circumstances that arise later.

Juvenile courts, at present, demonstrate an interest in reviewing the quality of care and supervision that may be furnished by public or quasi-public agencies to children and youth under court order. Communication and agreements with corrections departments and other social agencies are a useful tactic for bringing about the requisite services and reducing interorganizational conflict.

Judges should have their own independently secured knowledge of the special strengths and weaknesses of external agency resources. The judiciary needs continuously updated information on intake criteria and procedures, both on corrections service delivery practices, and on detention center and shelter care programs and standards. In turn, the court must identify those practices that are unsatisfactory, and should clarify for corrections agencies the form and substance of social studies needed in making the most appropriate dispositional decisions. A court's calendar should be managed so as to minimize the waiting time of police officers and executive agency representatives, as well as parties and witnesses. Court hearings should be initiated on time, with continuances granted only under extenuating conditions.

Police, courts, rehabilitation services, and the public at large all share prominent common interests. They all want a marshalling of resources to reduce the incidence and severity of delinquency and to facilitate constructive development. Yet each group has its own emphasis or preoccupation. Law enforcement's main concern is with protection of the community and with apprehension of offenders. The court emphasizes legal procedures and requirements, and balances community and child interests. Rehabilitation agencies prefer a minimum of legal constraints to their search for constructive resolution of juvenile antisocial or delinquent manifestations. The public seeks safety and protection of its property, and has a certain inherent distrust of law and judicial administration.

Collaboration with external agencies and sensitivity to the concerns of the public need not diminish the judicial system's independent function in our society.

The standards that follow stress judicial system leadership as an active and positive force in building strong interagency and public relationships, and in supporting governmental and private efforts to create and maintain the necessary services for court clientele. A special leadership priority is urged to obtain legislation as well as diversion resources, shelter care, and social services directed at averting the detention and institutionalization of juveniles whose behavior falls short of a law violation. Finally, the unique experiences of judges in this setting should be translated into educational approaches and programs aimed at the prevention of delinquency and family breakdown.

References

1. Davis, Kenneth & Culp. *Police Discretion*. St. Paul, Minnesota: West Publishing Company, 1975.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts*. Washington, D.C.: Government Printing Office, 1973.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Police*. Washington, D.C.: Government Printing Office, 1973.

4. Packer, Herbert L. "Two Models of the Criminal Process," *University of Pennsylvania Law Review*, Vol. 118, 1964.

5. Pound, Roscoe. "The Causes of Popular Dissatisfaction with the Administration of Justice," *Journal of the American Judicature Society*, Vol. 46, 1962.

Standard 18.1

The Court's Relationship With Law Enforcement Agencies

Family court divisions and law enforcement agencies should develop effective working relationships while retaining the integrity of their unique responsibilities and functions. Written court procedures and rules, reviewed with law enforcement agencies prior to adoption, should clarify the judicial system's requirements and responsibilities for case processing. Similarly, law enforcement agencies should adopt written policies and procedures, following court review, concerning police practices with juveniles.

Commentary

In a number of communities, notably large urban centers, there have been serious, and well-publicized differences between law enforcement, probation, and juvenile court officials. Probably in a far greater number of communities, police, probation, and courts collaborate effectively, recognizing their different functions and the important role each agency plays in furthering the best interest both of the community and of the youth who are subject to the juvenile justice process.

The procedures of each agency, the decisions made by their representatives, and the values, prejudices, and preferences of individual agency officials are all subject to law. Interorganizational tensions occur particularly when discretionary decisions are made by these agencies. Court officials may disagree with police decisions to bring certain offenders to detention rather than to return them to their parents. Their concern may extend to law enforcement referral of less serious offenders to the court. Conversely, the speedy release from detention, or a probation intake decision to avert judicial consideration of a police-referred juvenile, may provoke criticism from law enforcement officials.

A starting point is for family court divisions to clarify, in writing, their caseflow procedures and the functions that must be performed by police, prosecution, probation, and other agency officials to assure that referred juveniles receive prompt court attention based upon appropriate information. A State's juvenile code and rules of juvenile procedure are the foundations for case processing at the local level, but more specific policies must be created for each individual court; the concerns of the collaborating agencies should be considered in the development and periodic revision of these policies.

Standard 9.5.3 in the Police report of the National Advisory Commission on Criminal Justice Standards and Goals is also relevant here: "Every police agency should establish in cooperation with courts written policies and procedures governing agency action in juvenile matters. These policies and procedures should stipulate at least . . . c. The procedures for release of juveniles into parental custody; d. the procedures for the detention of juveniles."

A court's awareness of police practices and the problems incident to the police function increases judicial sensitivity to police concerns. The integrity of their different functions should be maintained while these organizations strive for greater consonance in their respective responsibilities for juveniles. Nonetheless, lawyer challenges as to whether police practices comport with constitutional and legal requirements will require judicial determination.

The presiding judge of the family court division should exercise leadership to help achieve these goals.

References

1. Chamelin, Neil C. "Police and Juvenile Court Relations," *Juvenile Justice*, Vol. 26 (Feb. 1975).

2. Kobetz, Richard W. and Bosarge, Betty B. *Juvenile Justice Administration*. Gaithersburg, Maryland: International Association of Chiefs of Police, 1973.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Police*. Washington, D.C., Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 18.1:

4.6 Participation in Policy Formulation
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
18.5 The Leadership Role of the Family Court Judge

Standard 18.2

The Court's Relationship With Probation Services

State judicial rules should be promulgated to govern court requirements for the probation agency at the local level; intake guidelines and practices should be reviewed with the presiding judge of the family court division. In no event should a judge participate in intake decisions concerning individual case referrals. Judges and intake and probation officers should not discuss cases in the absence of counsel for the State and the child.

The general format, content, and presentation of social study reports should receive the approval of the presiding judge of the family court division.

Judges of this court should meet regularly with senior probation officials to review probation procedures and services to youth under supervision.

Commentary

The relationship of the judiciary to the intake process and probation program should be defined and clarified on a formal rather than an informal basis. This is best done on a statewide basis, both through an administrative rule or a directive by either a chief justice, acting for the supreme court, or by a judicial council, and through State rules for juvenile procedures. Such a statewide policy should supplement statutory provisions and may require elaboration by written local court rule.

Because an executive probation agency must fulfill certain fundamental objectives and requirements of the courts, there should be a formalized approach for executive probation services to review their programs and procedures with the judiciary. Intake guidelines and practices should be reviewed by the judiciary to insure compliance with legal and court-rule requirements, and to seek consensus on the types of legal offenses and surrounding circumstances that favor formal judicial consideration or alternative informal dispositions.

Judicial decisionmaking in the formal case must retain its own integrity, but judges should give serious consideration to the carefully documented recommendations and plans of probation personnel, which should be made with knowledge of the services provided by probation departments and other community and State agencies.

The court should make clear what it needs to know in order to make well-qualified individual decisions. An atmosphere of open and honest dialogue between judges and senior probation officials best promotes judicial and probation practices that enhance both the community interest and the child's interest. The judiciary should encourage probation officials to express their concerns regarding judicial decisions and practices. This is frequently difficult because of the aura that surrounds judicial status. On the other hand, judges should express their concerns regarding intake and probation practices to appropriate probation officials.

Judges are taking greater interest in reviewing whether their orders have been implemented, both by the youths and their families, and by probation agencies. Judges, as overseers of probation services, should assure that the services considered necessary for the court clientele are provided.

It is incumbent upon judges to develop a basic knowledge of the applied social sciences in order to measure probation effectiveness. Conversely, it is critical that probation officials have a working knowledge of law and legal procedures. Having emerged from different disciplines, judges and probation officials must continue to clarify their roles and responsibilities in order to achieve an effective justice system.

References

1. Reichert, Irving F., Jr. "Redefining the Judge's Role: The Santa Clara Courts Plan," *Judicature*, Vol. 59 (Oct., 1975).

2. Sheridan, William H. and Beaser, Herbert Wilton. *Model Acts for State-Local Children's Programs*. Washington, D.C.: Government Printing Office, (DHEW Publication No. OHO-OYD 75-26041).

Related Standard

The following standard may be applicable in implementing Standard 18.2:

18.5 The Leadership Role of the Family Court Judge

Standard 18.3

The Court's Relationship With Public and Private Social Service Agencies

Family court divisions should maintain effective working relationships with public and private social service agencies in assisting individuals and families. The respective procedures and responsibilities of the court and social service agencies should be clarified through written agreements. These agreements should be reviewed on the basis of experience, and modified as needed.

Court personnel should develop systems to monitor external agency services. Such agencies should comply with the court's need for social reports, for direct testimony at hearings, and for information about serious problems in implementing the court's objectives in individual cases. The court should provide prompt hearings in making decisions relevant to agency provision for necessary services to children.

Commentary

This standard recognizes that the effective performance of a family court division involves more than its procedures, decisions and authority, and the range of services provided by the collaborating probation department. These courts must also rely upon public and private rehabilitation, counseling, education, health, welfare, employment, housing, legal, and other services.

The juvenile courts have recognized this reality since they were created. They have worked rather vigorously in support of the development and extension of necessary noncourt agencies, have sought expansive collaboration with these services on both the individual case and in helping define court-agency working relationships, and have continuously clarified for these agencies the changing roles, procedures and responsibiliities of the court. Juvenile courts reject the concept of working in isolation, recognize their interdependency, and have served as a model for more recent criminal court utilization of a broader range of community services.

Nonetheless, there is increasing recognition that the referral of a child to a cooperating agency results frequently in the agency's failure to provide the type of residential care, rehabilitative counseling, educational or vocational service, or mental health treatment that appears necessary. Youth and families sometimes fail to follow through or to continue with their referrals to outside services. Even when they do seek assistance, they may be met with substantial delay, with rejection because they do not fit into the agency's definition of its role, or provided with services that are not relevant to their needs, problems, or culture.

This standard recognizes that the courts need to clarify their expectations of community agency services, as well as to develop mechanisms and designate personnel to monitor the efficacy of court referrals and the quality of care or service actually provided by external agencies. A court administrator or other judicial system personnel should request regular reports from collaborative agencies on their response to the request for services to court clientele, as well as the nature of the services provided. Announced and unannounced visits by judges and judicial system officials to these agencies should be conducted. Agencies required by law to provide services to youth, and other agencies that have agreed to provide such services, should specify to the court at disposition, review, or other hearings, the actual, direct services they have provided or will provide.

It can be anticipated that the growing interest of juvenile court judges in finding ways to insure that necessary care, protection, and assistance are provided to persons presently within the court's jurisdiction, will in turn be extended to the broader jurisdiction of the family court division. Whether children freed for adoption are in fact adopted, whether family counseling ordered in conjunction with an intrafamily criminal assault is indeed provided, whether a person institutionalized for mental illness or retardation receives suitable care—these are examples of the continuing information that future family court divisions will pursue and review.

Further, courts should facilitate community agency delivery of necessary services to court clientele by instituting calendar and caseflow management systems that facilitate prompt judicial determinations. There are limitations to what a judge may order to be provided by external agencies. But no such agency may deprive a child of his constitutional rights, and courts must obtain information in cases where children's rights are denied and where agencies, mandated by law to provide treatment services, fail to provide this right to treatment.

State legislatures should adopt language similar to the 1972 New York amendment (Chapter 1016, Section 255), which authorizes family court judges to require public agency officials to render to court children and youth the assistance and services that the law otherwise requires them to provide.

References

1. Baar, Carl. "Will Urban Trial Courts Survive the War on Crime?" ed. Herbert Jacobs, in *The Potential for Reform of Criminal Justice,* Beverly Hills, Calif.: Sage Publications, 1974.

2. Carrigan, Jim R. *Inherent Powers of the Courts.* Reno: National College of the State Judiciary, 1973.

3. Nejelski, Paul and La Pook, Judith. "Monitoring the Juvenile Justice System: How Can You Tell Where You're Going, If You Don't Know Where You Are?" *The American Criminal Law Review.*

4. Schack, Elizabeth. *Juvenile Justice Confounded.* New York: National Council on Crime and Delinquency, 1972.

5. *The Ellery C. Decision: A Case Study of Judicial Regulation of Juvenile Status Offenders.* New York: The Institute of Judicial Administration, 1975.

Related Standard

The following standard may be applicable in implementing Standard 18.3:

18.5 The Leadership Role of the Family Court Judge

Standard 18.4

The Court's Relationship With the Public

Family court divisions should implement organized programs of public information and education to advise the public of the progress and problems in achieving court objectives. The court should encourage citizen and media observation of court proceedings within statutory constraints.

A representative family court division citizens' advisory committee, appointed by the presiding judge of the general trial court, should provide advice and critiques to the family court.

Commentary

It is axiomatic that all courts should implement a well-planned program of providing public information to area citizens. The foundation of this principle is that the courts, including juvenile and family courts, carry on public functions at public expense, and these functions require public understanding and support. Although the bench and bar have enlarged their public information programs, and although many juvenile courts have undertaken expansive efforts to interpret the proportions of their task, other juvenile courts have preferred to perpetuate the private nature of juvenile court hearings, thus curtailing public understanding of the procedures and problems of these hearings.

Public information programs should not disclose the identity of individual youngsters whose cases are reviewed by a court. The media and the public should have information on court procedures and practices, the nature of the court's collaboration with related juvenile justice and community agencies, statistical measures of workload, delinquency trends and research studies, the community problems presented to the court, and the court's insights into these problems and into legislative and programmatic needs.

Yet the court's relationship with the community must be reciprocal. The courts, to be effective and in step with community opinion, also need the benefit of public input into court administration. A representative family court advisory committee, appointed by the presiding judge of the general trial court, is one avenue for receiving citizen advice on an ongoing basis. This committee should include youth, lay citizens, and professional members in order to achieve a membership that parallels both the service-receiving groups and the service-providing groups. Participation by court officials in a variety of community organizations and planning efforts is also valuable.

Appointment of an ad hoc citizens' committee or professional-advisory committee to study particular problems facing the court and to make recommendations that address these problems is a further useful approach. Judicial efforts to elicit information from court clientele about their experience with juvenile justice system agencies is another possible approach.

Important contributions to public understanding of juvenile courts have been made by perceptive media representatives who have been encouraged by courts to attend juvenile hearings and review juvenile court practices. This has been done while protecting the privacy of the individual client. It is generally possible to invite citizen representatives to observe court hearings while respecting the statutory requirements that these proceedings remain private. This invitation to observe these proceedings should be extended consciously to minority group citizens and to the poor. Also, family court divisions should more deliberately involve victims of juvenile delinquent acts at their different hearings.

References

1. Garff, Regnal W. *Handbook for New Juvenile Court Judges.* Reno: National Council of Juvenile Court Judges, 1973.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Courts,* Standard 9.6. Washington, D.C.: Government Printing Office, 1973.

3. Rubin, H. Ted. "The Eye of the Juvenile Court Judge: A One-Step-Up View of the Juvenile Justice System," ed. Malcolm W. Klein, *The Juvenile Justice System,* Beverly Hills: Sage Publications, 1976

Related Standard

The following standard may be applicable in implementing Standard 18.4:

18.5 The Leadership Role of the Family Court Judge

Standard 18.5

The Leadership Role of the Family Court Judge

Judges of family courts should provide strong leadership to citizen, agency, and government efforts in developing services and solutions to the problems presented by parties to court actions that cannot be addressed sufficiently by the court alone.

Advocacy to achieve sharply expanded external agency services, as alternatives to court intervention for juvenile noncriminal misbehavior, should be an immediate priority.

Judicial leadership should be exerted to encourage and support programs for the prevention of delinquency, child endangerment, and family breakdown. Judges should perform an educational role in communicating their knowledge of law and insights derived from court experience to the public at large.

Commentary

Increasingly severe caseload pressures, and, following implementation of the family court division, the additional judicial obligations to the overall court of general trial jurisdiction, will hamper traditional juvenile court advocacy for expanded and improved community prevention and rehabilitation services. But the leadership role of these judges must remain prominent and must even be intensified. Judicial leadership is required if society is to maintain a progressive and humanistic social direction in the face of competing claims for government and private funds, and in the contemporary environment of conflicting values and often impatient public attitudes.

The prestige of judicial office, and the knowledge and perspectives that accrue in administering juvenile and family justice, offer family court judges the opportunity to have a significant impact on social and legislative progress.

The Code of Judicial Conduct authorizes judicial participation in legal system and law reform, in improving the administration of justice, in serving as a director of an organization devoted to these objectives, and in consulting with or appearing before executive or legislative bodies or officials on matters concerning judicial administration. This all should be in addition to the proper performance of in-court judicial duties.

It is important that the presiding judge of the general trial court understand the special objectives and role of the family court division and support the family court judges' execution of their leadership obligations.

The requirements of the Juvenile Justice and Delinquency Prevention Act, and the explicit direction of the standards of this act and those of other national standard-setting bodies, are meant to restrict court jurisdiction and the sanctions applicable to juvenile,

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nondelinquent misbehavior. Of the panoply of priorities that this judiciary must address, the development of alternatives to court intervention, detention, and institutionalization for these juveniles should receive special attention.

Family court judges should present their experiences and counsel to legislative bodies as these bodies evaluate current laws and consider statutory improvements. The integrity of the judicial department as an independent branch of government requires that the judiciary carefully document its budget justification, and responsibly detail court objectives to such groups. Judicial support for the funding needs of juveniles and family-service agencies should be encouraged as well.

References

1. Code of Judicial Conduct, American Bar Association Special Committee on Standards of Judicial Conduct, Canon 4, 1972.

2. Fretz, Donald R. *Courts and the Community.* Reno: National College of the State Judiciary, 1975.

Related Standards

The following standards may be applicable in implementing Standard 18.5:

1.1	Developing a Comprehensive Delinquency Prevention Plan
4.4	Guidelines on Use of Police Discretion
8.4	Family Court Judges
8.5	Supervising Judge
17.1	Selection of Judges
17.2	Training and Compensation of Judges
19.8	Duties of the State Agency—General
25.3	Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation
26.1	Analyze the Present Situation
26.2	Develop Goals
26.3	Developing Problem Statements
26.4	Program Development
26.5	Program Implementation
28.1	Collection and Retention of Information on Juveniles
28.2	Access to Juvenile Records
28.3	Children's Privacy Committee
28.4	Computers in the Juvenile Justice System
28.5	Sealing of Juvenile Records

Part 5
Intake, Investigation, and Corrections

INTRODUCTION

Although the court handling juvenile matters is central to the juvenile justice system, the experienced practitioner or the informed reader will quickly recognize that the court itself is but one component of the overall juvenile justice system. Other agencies play a supportive and complementary role. For example, in many cases of alleged law violations by juveniles, a juvenile intake unit will dispose of the case in an informal manner; formal judicial proceedings are never invoked. In the cases that are adjudicated, the court requires the assistance of an investigation unit—trained professionals who conduct social investigations and prepare recommendations to help the court reach an appropriate dispositional decision. And finally, once a juvenile has been adjudicated and the formal proceedings are concluded, responsibility for executing the dispositional order rests with corrections personnel. This section addresses these three closely interrelated functions—intake, investigation, and corrections.

Fewer than half of the applications for petitions to the courts handling juvenile matters actually proceed to formal adjudication. While some of these applications are simply dismissed because the facts do not support the allegations, the juveniles often are diverted from formal proceedings and referred to service programs. The task of sorting the applications and determining which cases shall be referred to the court is the function of the juvenile intake unit. Intake personnel make important decisions that have a significant impact on the legal rights of juveniles and the workload of the juvenile justice system. By channeling appropriate cases to community-based service programs, intake workers also play a vital role in the prevention and corrections process. The intake function will become increasingly important in the future. In general, the use of court proceedings in delinquency cases should be limited to those cases involving serious delinquent acts or repeated law violations of a more than trivial nature. Consistent with the recommendations of the President's Commission on Law Enforcement and Administration of Justice and the National Advisory Commission on Criminal Justice Standards and Goals, this report strongly endorses the expanded use of diversion programs in the juvenile system.

More extensive reliance on diversion programs is consistent with the report's overall philosophy of employing the least coercive reasonable and appropriate alternative. This philosophy also calls for a reassessment of the preadjudicatory detention practices currently employed in many States. Past commentators and standards-setting groups have repeatedly emphasized that too many juveniles are detained far too long, often in woefully inadequate facilities. While current practices vary widely among the States, many jurisdictions continue to detain juveniles in jails and other lockups used to house adults who are accused or convicted of crimes. In light of the substantial evidence on the deleterious effects of placing juveniles with sophisticated adult criminals, reforms in these practices should be of high priority. In addition, the criteria for detention should be carefully limited and clearly defined, and procedures for a prompt judicial hearing to review the detention decision should be clarified by statute.

The current reexamination of the appropriate use of institutions in the juvenile system is not, of course, limited to preadjudicatory detention. It extends to the postadjudicatory processes as well. And this in turn is only one component of an overall reevaluation of the proper purposes and scope of juvenile correctional programs. Correctional programs attempt to develop individual responsibility for lawful behavior through programs of reeducation to enable the juvenile to substitute socially acceptable behavior for delinquent conduct. These programs take a variety of different forms, ranging from probation to secure or nonsecure residential placement to aftercare services. Effective correctional programs can both reduce the penetration of juveniles into the system and reduce recidivism.

Probation—which, together with aftercare (parole), is referred to in these standards as community supervision—is the most frequently employed component of juvenile corrections. Adjudicated juveniles who are placed on probation remain in their homes while being subject to the conditions imposed in the court's dispositional order. They must report periodically to a probation officer and are generally required to participate in service programs.

In most States, juvenile probation programs have traditionally been treated as a primarily local function, commonly organized by the county government. While this has the advantage of decentralizing services so as to make them accessible to juvenile clients, it raises a number of difficulties. Too often the delivery of services is fragmented and uneven. While some areas provide a wide array of high-quality services, other areas provide very limited or generally lower quality services. To minimize these problems, this report favors the option of placing responsibility for community supervision (probation and parole) programs in a single State agency. This agency also should have overall responsibility for juvenile intake and all of corrections, including institutions and community supervision programs. The delivery of services should be decentralized to the local level. But placing general responsibility for these services in an independent State agency is important to insure equalization and general improvement in the quality of services.

Also recommended is that the proposed State agency be responsible for a statewide network of both secure and nonsecure residential facilities. While it may be appropriate to contract with local public or private organizations for the operation of some of these facilities, all residential facilities should be inspected and approved by the State agency and should operate only in accordance with its promulgated standards.

The subject of the appropriate use of residential facilities has received increasing attention in recent years. Traditionally, juveniles ordered to residential placements have been removed from the community and placed in large, secure institutions—usually training schools located in isolated, rural areas. Within the past decade, however, this approach has been reconsidered and there has been a powerful impetus toward reform. On the one hand, this has manifested itself in a movement toward deinstitutionalization, with increasing use of probation programs.

On the other hand, when residential placements are employed, there is increasing emphasis on the use of smaller, community-based facilities. Greater attention also has been placed on attempts to reintegrate the juvenile into community life. For example, opportunities for educational or work furloughs for juveniles in residential facilities have been expanded. In addition, the operations of the facilities themselves have been subjected to closer scrutiny as grievance and disciplinary procedures have been reexamined by courts, commentators, and practitioners.

The foregoing discussion highlights, in a very cursory fashion, a few of the important issues and emerging trends in juvenile intake, investigations, and corrections. The standards in the following six chapters outline recommendations for these functions of the juvenile system.

Chapter 19 focuses broadly on the purposes of juvenile corrections and the preferred organizational and administrative structure for intake and corrections programs. It urges that a single, autonomous State agency be responsible for providing or assuring the provision of all services required to carry out the predispositional and postdispositional orders of the family court. The general authority, duties, and limitations on the powers of the proposed State agency are also discussed. Constructive changes in juveniles' behavior can take place only in an environment in which the juveniles are treated fairly. Therefore, Chapter 20 sets forth recommendations for formalized grievance and disciplinary procedures, outlining hearing rights and review procedures in each of these areas. These procedures should be part of each State's correctional programs.

Chapter 21 addresses the important subject of intake services. The standards vest the proposed State agency with responsibility for performing the intake function. They also indicate that intake personnel should prepare the dispositional reports for the family court.

Standards for detention and shelter care of alleged delinquent juveniles are set forth in Chapter 22. The standards specify that the State agency should provide or assure the provision of adequate facilities for these purposes. Standards for the operation of these facilities, prohibiting the use of jails, and criteria for detention are also discussed.

Chapter 23 focuses on community supervision programs. It recommends that the proposed State agency be responsible for the overall planning, development, and coordination of these programs but that the delivery of services be decentralized to the local level.

Finally, Chapter 24 discusses residential facilities for adjudicated delinquents. The standards emphasize that the number and use of secure residential facilities should be kept to an absolute minimum. They also set forth a number of programmatic guidelines for residential placements.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

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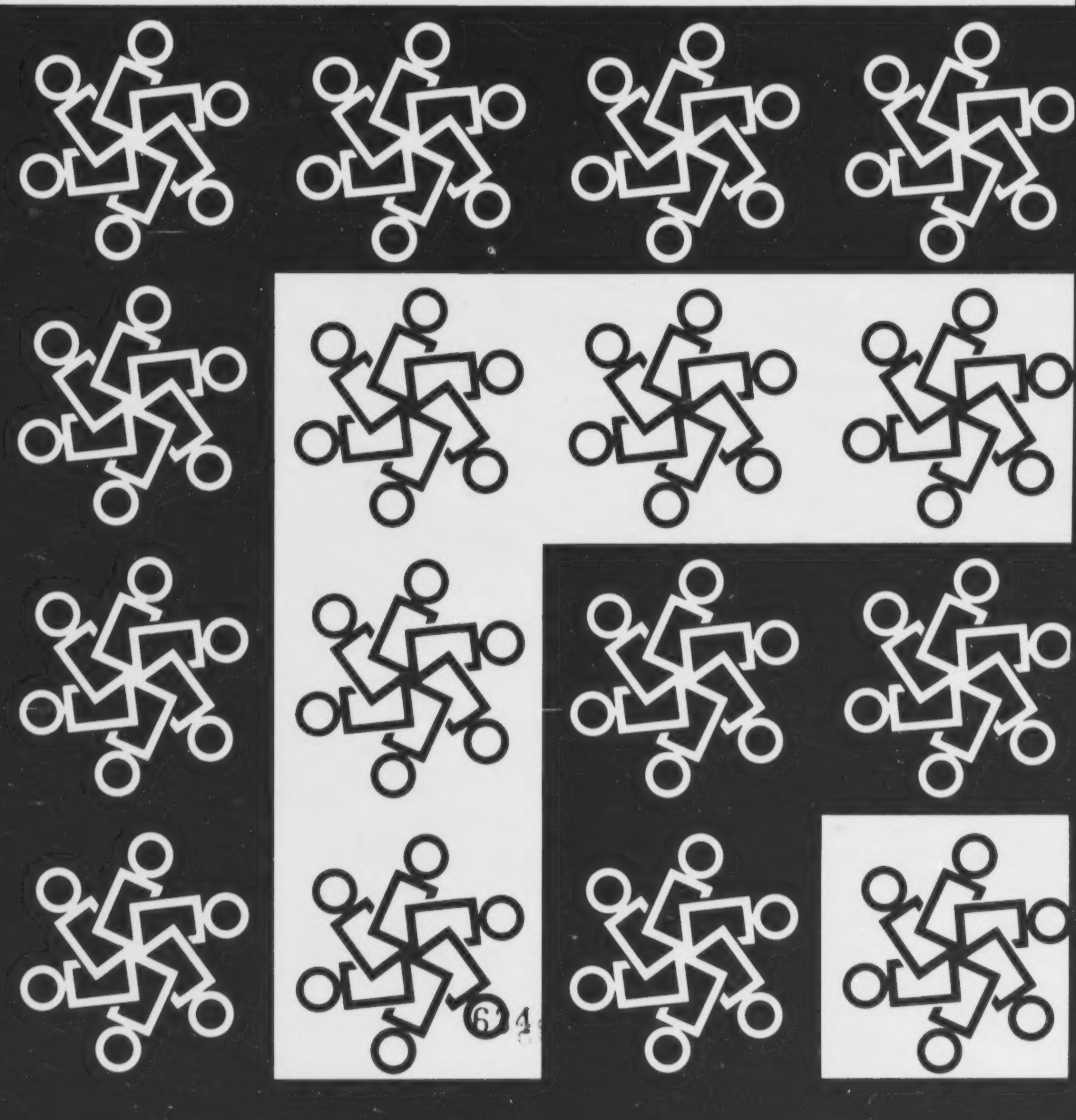
Chapter 19

State Agency for Juvenile Intake and Corrections—Purpose, Organization, Administration, and Scope of Program



INTRODUCTION

This chapter addresses a number of significant issues related to the effective organization and delivery of juvenile intake and correctional services. Although subsequent chapters in this section focus on specific components of the system (e.g., grievance and disciplinary procedures or intake services), this chapter is broader. It is directed principally to administrative questions of systemwide importance.

The first standards outline overall purposes of juvenile correctional programs. Central to all juvenile corrections is the goal of protecting the public through the reduction of delinquency by helping juveniles substitute socially acceptable behavior for delinquent conduct. The correctional system also must carry out the dispositional orders of the family court and plan, develop, and operationalize the necessary correctional services and programs. The standards further indicate that the means used toward these purposes should be fair and just, recognize juveniles' unique characteristics and needs, and provide them with access to opportunities for normal growth and development (see Standard 19.1).

Against this background, the standards then explore the most effective way of organizing the necessary services and facilities. They show a strong preference for a single statewide agency with responsibility for the administration of all juvenile intake and corrections. This approach is based on the belief that an independent agency can best solve the special problems of juveniles. While it may be appropriate for coordination purposes to bring the State agency under an umbrella organization with other people-serving agencies, it should be a separate administrative entity located in the executive branch of government (see Standard 19.2). An autonomous, statewide organization can provide more effective planning, assure uniformity in the delivery of services, and avoid the duplication of programs.

Next, the standards focus on the provision of services. They specify that the State agency should be charged with providing or assuring the provision of all services necessary to carry out the predispositional and postdispositional orders of the family court. The standards also indicate that the provision of direct services to juveniles should be decentralized to the smallest geographic entities consistent with retaining juveniles in their home communities and providing services at a reasonable cost.

After listing the types of services that should be available, the standards state that the agency should be authorized to either provide them itself or purchase them from other public agencies or the private sector. However, all services provided by contract should be maintained by the State agency and required to comply with the agency's standards (see Standard 19.3). The standards also address the State agency's general authority and responsibility for services, indicating that the agency should act on authority delegated to it in the family court's dispositional orders. The commentary recommends a number of general powers the agency should have over any juvenile committed to its custody (see Standard 19.4).

The standards then list in detail some of the State agency's specific responsibilities. These include exercising supervision and custody and providing necessary services for adjudicated delinquents as ordered by the family court. The agency also should be responsible for conducting investigative studies of all juveniles committed to its custody, informing the family court if it cannot provide needed services, and undertaking periodic reviews of all juvenile custody cases. The standards also provide specific directives for handling cases in which juveniles are mentally ill or mentally retarded. And they indicate that the agency should be required to keep complete written records to facilitate administrative decisions, planning, and evaluation (see Standard 19.5).

Limitations on the State agency's authority are discussed, with a list of specifically prohibited activities. For example, the agency should not be empowered to place a juvenile in any institution designated for the incarceration of adults or in any mental hospital for the purpose of extended care or treatment. Moreover, placements in out-of-State facilities should not be allowed without court approval. The standards also set forth specific guidelines for the provision of medical care, and indicate that important agency decisions should not be delegated to low-echelon personnel (see Standard 19.6).

The standards then turn to a subject that has received increasing attention—the right of the juvenile to refuse rehabilitative services. Standard 19.7 takes the position that, although the juvenile should be expected to participate in any programs or services set forth in the dispositional order, the concept of right to refuse services should be respected. Therefore, such services as counseling and religious programs should be of a voluntary nature.

Standard 19.8 outlines a number of general duties of the State agency, including long-range planning and the development of innovative diversion programs. It also emphasizes the need to conduct research and evaluation and calls for the establishment of an advisory citizens' committee to help assess the effectiveness of corrections programs.

The remaining standards in the chapter focus on personnel. They specify that State agency personnel should come within the provisions of a merit plan and emphasize the need for a strong commitment to the recruitment and hiring of staff at all levels on an affirmative action basis. In addition, the standards call for the establishment of employee grievance procedures, a code of conduct, and procedures for communicating with employees concerning wages, laws, and working conditions (see Standard 19.9). Finally, the standards indicate that the State agency should assure comprehensive training for employees involved in its programs. And they recommend the development of strong volunteer programs to enrich and supplement all services to juveniles (see Standards 19.10 and 19.11).

References

1. California Department of the Youth Authority. *Standards for Juvenile Homes, Ranches and Camps*. Sacramento, Calif.: California State Documents Section, 1972.

2. Fox, Sanford. "The Reform of Juvenile Justice: The Child's Right to Punishment," *Juvenile Justice*, 1974, vol. 25.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

4. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. Washington, D.C.: Government Printing Office, 1967.

Standard 19.1

Purposes of Juvenile Corrections

The purposes of juvenile corrections are to protect society, carry out the dispositional orders of the family court, and plan, develop, and operationalize the necessary correctional programs and services.

These purposes should be carried out through means that are fair and just; that recognize the unique physical, psychological, and social characteristics and needs of juveniles; and that give juveniles access to opportunities for normal growth and development.

Commentary

An effective juvenile corrections system can play an important part in the reduction of delinquency, resulting in greater public protection. The protection of the public is most enhanced when juvenile corrections maintain the integrity of the substantive law proscribing illegal behavior and develop juveniles' individual responsibility for lawful behavior through programs of reeducation. To secure these objectives, the juvenile corrections system should be given the responsibility for carrying out the dispositional orders of the family court. It also should plan, develop, and operationalize the necessary educational programs and services. These correctional programs must be pursued through means that are fair and just; that recognize the unique physical, psychological, and social characteristics and needs of juveniles; and that give juveniles access to opportunities for normal growth and development.

Instinct and experience suggest that individuals are deterred from illegal behavior by the fear of apprehension and punishment, but to date social scientists have found it difficult to provide quantitative evidence to support this assumption. This standard recognizes the value of deterrence but rejects deterrence as the sole or fundamental purpose of juvenile corrections. A correctional system for juveniles should be future-oriented and should attempt to promote the development of individual responsibility for lawful behavior by adjudicated juveniles by providing opportunities for their personal and social growth. This broad and future-based conception of juvenile corrections is supported by the traditional view about the physical dependence of the very young and the slow process of intellectual and emotional maturation during adolescence.

Fundamental to this standard is the need for the system to operate fairly and equitably and insure that those who are affected by correctional programs see them as fair and equitable. Thus, the standard

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seeks to respond to the ideal described by John Rawls:

> Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests. The only thing that permits us to acquiesce in an erroneous theory is the lack of a better one; analogously, an injustice is tolerable only when it is necessary to avoid an even greater injustice. Being first virtues of human activities, truth and justice are uncompromising. [J. Rawls, *A Theory of Justice* (1971).]

Finally, juvenile corrections is but one component of a much broader system designed to prevent anti-social behavior. Although the role of the juvenile correctional system is modest, this should not preclude either the obligation of the State to provide a full range of services for juveniles subject to the correctional system or broader efforts outside the correctional system to provide services to all juveniles aimed at improving their social and economic situation.

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Related Standards

The following standards may be applicable in implementing Standard 19.1:

14.1 Purpose of Dispositions
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
19.6 Limitations on Authority
19.8 Duties of the State Agency—General

Standard 19.2

Creation of a State Agency for Juvenile Intake and Corrections

There should be a strong preference for a single statewide agency with responsibility for the administration of all juvenile intake and corrections. This State agency should be located within the executive branch of government, and its chief administrator should report directly to the governor or a cabinet-level official. The State agency should be a separate administrative entity but may be under an umbrella organization in which a number of people-serving agencies are brought together for coordination purposes.

Commentary

This standard is based on the premise that an independent State agency offers optimum operating conditions, provided the State program is large enough to make it feasible and the State's tradition, existing political climate, and power structure will tolerate such an arrangement. In order to insure that the agency is not subservient to any larger organizational entity, the director should report directly to the governor or a cabinet-level official. Independence places the State agency in a better competitive position to secure a fair share of the tax dollar.

An independent State agency better highlights the unique special problems of children and youth. The very existence of such an agency reminds the public and the legislature of the presence of these special youth problems. Society appears clearly committed to the care and treatment of its young, even though it often seems to seek to punish adults and be less tolerant of offering support, guidance, and counseling to older persons. Thus, it is illogical to risk jeopardizing this preferred position through administrative alliance with an adult organization.

A single agency with a responsibility for administration of all juvenile programs should reduce the complexity of juvenile corrections and provide the opportunity to reduce the duplication of juvenile services. A single State agency allows the same level of service to be extended to all areas and to all clients. This is manifestly not the case when local administrations prevail. Both the independence and the integrity of the services are better protected when fixed at a State level. Economies of scale in program operations also are possible. Under a State agency such consideration can be given to regional services as opposed to distinctly local service since State-administered services generally tend to follow population distribution rather than county lines or political jurisdictions. And probably most important, a single State agency administratively responsible for both intake and corrections can eliminate the tendency to dump problem cases to a higher level of government.

The many advantages of a single State operation center primarily around the principle of uniform policies and operations. Uniformity of standards for performance, uniformity of pay and personnel requirements for employees, equity of services for clients, and an increased capacity to systematically plan on a comprehensive rather than on a fragmented basis are examples of the benefits that can accrue from a statewide organization.

Ultimately and ideally a State agency of juvenile intake and corrections should be absorbed into a State agency for children and youth services. Today, youth constitutes a substantial portion of the population of the United States. So youth is a distinctive group requiring special handling for the unique problems associated with not only age but also the number that this age represents in the total population. The accelerated accumulation of knowledge of human behavior continually reinforces our understanding that agencies vested with responsibity for problem children also should be charged with the care of all children and youth so they can have broad resources at their disposal to enhance their effectiveness. Narrowly defined functions such as corrections engage the efforts of too many in a bureaucratic struggle to obtain and maintain power while at the same time seeking needed services elsewhere in the governmental structure. The public's concern with delinquent and neglected youth provides governmental and private agencies with the opportunity to develop comprehensive and coordinated programs appropriate to our times and needs. Purposeful change is the order of the day, and the creation of a single, independent State agency for juvenile intake and corrections may be the first step in the development of a more comprehensive program that addresses the total problems faced by children and youth in contemporary society.

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Related Standards

The following standards may be applicable in implementing Standard 19.2:

21.1 State Agency Responsibility for Intake Services
22.2 State Standards for Detention and Shelter Care Facilities
23.1 Organization
24.1 Development of a Statewide System

Standard 19.3

Provision of Services

The State agency should be responsible for providing or assuring the provision of all services required to carry out the predispositional and postdispositional orders of the family court. It also should be responsible for overall planning, policy development, fiscal management, monitoring, and evaluation of service programs.

The provision of direct services to juveniles should be decentralized to the smallest geographic entities consistent with retaining the juvenile in his or her home community and providing services at a reasonable cost. Specific direct services to be provided should include, but not be limited to:

1. A statewide system of intake and diagnostic study;

2. A statewide system of secure and nonsecure facilities for juveniles awaiting family court action or implementation of the family court's order;

3. A statewide system of community supervision;

4. A statewide system of institutions, camps, and group homes for the care of adjudicated juveniles; and

5. Acting as agent for the State in the operation of the Interstate Compact for Juveniles.

The State agency may directly provide all services or it may contract with the private sector or with other public agencies to provide such services. When services are contracted for, the State agency should retain responsibility for monitoring and enforcing program standards in the same manner prescribed for State-operated programs.

Commentary

This standard is concerned with the way the State should organize its services for juveniles needing correctional care and control. It vests the proposed State agency with the responsibility to plan for, facilitate, coordinate, and either deliver or assure the delivery of all services required to carry out the predispositional and postdispositional orders of the family court. It further indicates that the provision of direct services to juveniles should be decentralized to the smallest geographic entities consistent with retaining the juvenile in his or her home community and providing services at a reasonable cost. Although the State agency has the responsibility of seeing that services are delivered to all juveniles assigned to it, the agency itself need not be the single provider of all direct services. The agency's primary responsibility is to set standards for service and provide the resources necessary to bring about correctional care and control during the period designated by the courts. In some cases the agency may conclude that it is appropriate to secure the necessary services from either public or private sources on contract, through purchase of service, or by subsidy. When this occurs the State agency should, of course, retain its responsibility for monitoring and enforcing program standards in the same manner prescribed for State-operated programs.

The primary assumption underlying this proposed organizational structure is that juveniles are subjected to custodial care or correctional services for a variety of different reasons and the case of each juvenile must be carefully studied and analyzed on an individual basis. The State agency should have at its disposal a wide variety of service programs designed to meet these varied needs.

Specific direct services to be provided should include programs for intake and diagnostic study, detention and shelter care, community supervision, and secure and nonsecure residential placements. Placing complete responsibility for the provision of services from intake to discharge with the State agency gives it the capacity to individually program for each juvenile committed to its care.

The important administrative advantages of a comprehensive, statewide network of services should also be emphasized. Statewide programs can assure consistency in the level of services, avoid duplication and overlapping, and assure the most effective use of existing programs and facilities, as well as the wise expenditure of limited resources (see Standard 19.2).

The final model for the care and treatment and/or punishment of juveniles has not yet emerged, but the administrative structure for promoting growth and change must develop from the purposes for which the programs are initiated. This administrative structure should combine a variety of functions, be independent, and have built within it the capacity to shift and respond appropriately to the changing program needs of its clientele. Centralizing responsibility for the provision of all predispositional and postdispositional services in the proposed State agency should best accomplish these objectives.

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Related Standards

The following standards may be applicable in implementing Standard 19.3:

19.1 Purposes of Juvenile Corrections
21.1 State Agency Responsibility for Intake Services
22.2 State Standards for Detention and Shelter Care Facilities
23.1 Organization
24.1 Development of a Statewide System

Standard 19.4

General Authority and Responsibility for Services

The State agency should provide services pursuant to a valid order of the family court and act on authority delegated to it by the family court to carry out such orders.

Commentary

This standard emphasizes that the State agency's general authority and responsibility for juveniles committed to it derive from valid orders of the family court and the authority delegated to it by the family court to carry out such orders. Although the State agency should not be empowered to increase the duration or severity of the programs outlined in the court's dispositional order, it should be granted the discretionary powers needed to provide the services required to put the court's order into effect.

In carrying out these responsibilities, the State agency's authority should range from the ability to decide where juveniles will live to such practical matters as the provision of food, shelter, education, recreation, and medical care. If the agency is to be held responsible for the supervision of the juvenile in the community, it must of necessity have the authority to determine where and with whom the juvenile will live and what specific services will be offered under what circumstances. No organization with responsibility to plan for the individualized needs of juveniles can function effectively without some discretionary powers to manage the services appropriate to the needs of the juvenile under supervision. In determining the appropriate services, the juvenile's input as to interests, personal commitment, and involvement should always be an important consideration. However, the juvenile's right to participation in decisions affecting his life in no way bestows upon him or her an absolute right to veto all program decisions that the family court or the State agency determine to be in his best interest (see Standard 19.7).

To properly fulfill its duties, the State agency also should be granted the authority and responsibility to train, educate, reasonably discipline, and protect the juvenile within the parameters of the family court's dispositional order. Although it should not be authorized to adjust the security level ordered, transfers between residential facilities having the same degree of security—for example, from foster home to foster home or from secure institution to secure institution—should be authorized without petitioning the family court for its approval. This is necessary to enable the agency to deal effectively with population and program issues that may arise from time to time. In other instances, it may be desirable to effect such transfers in order to place the juvenile closer to home, to relieve problems relating to personality conflicts, or to provide special medical, psychiatric, or educational services.

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Related Standards

The following standards may be applicable in implementing Standard 19.4:

19.1 Purposes of Juvenile Corrections
19.3 Provision of Services
19.5 Specific Responsibilities
19.6 Limitations on Authority

Standard 19.5

Specific Responsibilities

The State agency's specific responsibilities should include the following:

1. To accept legal custody of all adjudicated delinquents committed to it and to exercise supervision and custody and provide necessary services for adjudicated delinquents as ordered by the family court;

2. As soon as possible after an adjudicated delinquent is committed to its custody, to conduct an investigation of the juvenile, including the juvenile's life and behavior and that of the juvenile's family. In so doing the State agency may make use of any previous studies if they are sufficiently current and pertinent;

3. On the basis of its investigation, to provide the juvenile with a program of supervision, care, counseling, and/or placement that complies with the dispositional order of the family court and will best meet the juvenile's normal personal growth and development needs;

4. To inform the family court if it determines, as a result of its investigation, that it cannot provide access to all services required by the juvenile;

5. To periodically (every 90 days) review the case of each juvenile committed to its custody. This review should include an evaluation of the progress made by the juvenile since the previous review and should determine whether existing plans for the juvenile should be modified or continued. A written summary of the periodic review should be sent to the juvenile's parents or guardians and to the family court;

6. Whenever the State agency learns that any juvenile in its custody does not have a parent or legal guardian capable of exercising effective guardianship of the juvenile, to petition the family court for the appointment of a guardian and/or conservatorship;

7. To provide or contract with mental health agencies for diagnosis and short-term (90-day) care of those juveniles in need of short-term mental health services;

8. Whenever the State agency has reasonable grounds to believe that a juvenile under its legal custody or supervision is mentally ill or mentally retarded, to petition the family court for a review and rescission of the order vesting legal custody or supervision in the agency and for the initiation of proceedings for the civil commitment of such juvenile as mentally ill or mentally retarded; and,

9. To maintain complete written records of all studies and examinations of juvenile commitments and the resulting conclusions and recommendations and of all major decisions and orders affecting juvenile commitments. Such records should be maintained in a manner that will facilitate administrative decisions, planning, and evaluation (see Standard 25.4).

Commentary

This standard lists nine of the specific responsibilities of the State agency in providing care and services to adjudicated juveniles under its supervision or custody. The agency derives its authority to supervise and control the juvenile from the family court, which determines the duration and the nature of the services to be provided to the juvenile. After the dispositional proceedings are completed, the juvenile correctional agency must provide the services, controls, and circumstances that the family court has determined to be most appropriate. Specific procedures are necessary to assure that the juvenile's basic rights are not violated in the postdispositional process. These procedures should be designed to strike a reasonable balance between the protection of the rights and the need for care and training of the juvenile and the State agency's authority and responsibility to provide such care and control.

Following the family court's decision regarding the need for correctional care, it is the State agency's responsibility to immediately accept legal custody and to commence such investigations as may be required to assess the needs of the juvenile and the nature and availability of appropriate programs. Should the agency be unable to provide the appropriate services, it should immediately advise the family court in order to permit the court to consider other alternatives and options.

Once a child has been accepted into a program, it should not be assumed that the agency's initial classification assignment was either correct or absolute. Good classification procedures demand regularly scheduled reviews to assess the adequacy of the original diagnosis, the progress being made in a program, and the need for additional or enriching program experiences for the youth. Written summaries of these regular reviews should be shared with both the court and the family so that they, too, are informed of progress and problems. This requirement for periodic review and reporting prevents the juvenile from getting lost in the program. It keeps dispositional objectives constantly before all interested parties, insures continued uninterrupted services, and serves as a control on any faulty initial diagnosis.

Every child is entitled to have a legally responsible adult, independent of the State juvenile corrections agency, to serve as guardian to protect the juvenile's rights while under correctional care and supervision. It is the obligation of the agency to see that such a guardian is provided to children not having a responsible parent or guardian.

From time to time some juveniles in the agency's custody will evidence aberrant behavior that suggests incipient mental illness. Such children may well need medical care in a mental hospital. The regimen of a correctional program, even when carried out in a relatively nonsecure facility, often exacerbates the juvenile's condition. Therefore, the agency should have authority to transfer the juvenile quickly to a mental health agency for diagnosis and short-term care. Should the juvenile be determined to be mentally ill or retarded, he or she should be returned to the family court for placement in an appropriate program. A clear distinction should be maintained between juveniles who are ill or retarded and those who are delinquent. Mentally ill or mentally retarded children should not be subject to continuing control or care of a juvenile correctional agency.

The State juvenile corrections agency should also maintain accurate and detailed records regarding the decisions it makes on behalf of juveniles. Written records enable the family court and independent outsiders to periodically review the decisions and determine whether the legal rights of the juvenile have been protected and/or the decisions made are consistent with the intent and the authority granted by the family court. It is the responsibility of the juvenile correctional agency to establish a system of recordkeeping that facilitates these objectives and also furthers the agency's capacity to make administrative decisions and engage in planning and evaluation (see Standard 25.4).

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Related Standards

The following standards may be applicable in implementing Standard 19.5:

14.18 Procedures for Disposition of Mentally Ill or Mentally Retarded Juveniles
19.1 Purposes of Juvenile Corrections
19.3 Provision of Services
19.4 General Authority and Responsibility for Services
19.6 Limitations on Authority
25.4 Data Requirements

Standard 19.6

Limitations on Authority

The State agency's authority to take action with respect to the juvenile commitment should be limited. Some activities should be specifically prohibited. For example, the State agency should not:

1. Place a juvenile in or transfer a juvenile to any institution or facility designated for the temporary or longtime incarceration of adults; any mental hospital for the purpose of extended care or treatment; or any public or private institution or facility outside of the State without court approval.

2. Consent to the juvenile's marriage, adoption, enlistment in the armed forces, or any other action that would have a serious impact upon the juvenile that is included within the authority of the legal custodian and for which the consent of the parents or guardians is required.

3. Subject the juvenile to any medical care or treatment that is other than routine or preventive without the express written permission of the parents or guardians or to any care or treatment that is contrary to the religious tenets of the juvenile or the parents or guardians.

4. Subject the juvenile to any medical experimentation or administer any drugs or chemical restraints to control the juvenile's behavior, unless such drugs or chemical restraints are necessary to prevent the juvenile's injury or sustain the juvenile's health.

The State agency should not delegate important decisions to low-echelon personnel. Important decisions such as the initial placement of the juvenile, the transfer of the juvenile from one type of foster care to another, or the release of the juvenile should be made by the regional director or a designated deputy in consultation with the appropriate program and staff.

Commentary

The services offered to a juvenile under the jurisdiction of the State agency should never be used as an independent justification for increasing the severity or the duration of the disposition ordered by the family court. Such action exceeds that called for by the seriousness of the juvenile's law violation. It is no more justified than a similar intervention might be to provide services for a juvenile who had not been so adjudicated. Therefore, this standard restricts the authority of the State agency to take action in areas that might violate this basic principle.

The standard speaks to one of the critical issues facing modern corrections, i.e., the exercise and control of unlimited correctional power. Coercive intervention is not justified simply on the basis of one's status as a law violator. Moreover, the law has always recognized the need for discretion to temper the rigidity of rules. It is impossible to develop rules that will achieve justice in all cases to which they may be applicable. This suggests that varying circumstances may require some discretionary powers. However, these discretionary powers should be held to an absolute minimum in order to ensure equity within the system. Unchecked discretion, no matter how beneficently exercised, creates its own hazards, both to the integrity of the system and to the well-being of the person subjected to that system.

In the field of administrative action, correctional administrators are particularly susceptible to abusing power due to arbitrary and mechanical decisionmaking processes required to regulate the lives and activities of a large number of persons. Unnecessary power exercised by correctional staff leaves the adjudicated juvenile little control over his own life. He tends to find himself constantly at the mercy of his keepers and, in effect, unaccountable for his own behavior and development. If one of the purposes of corrections is to reeducate the juvenile and teach him accountability, it ill serves that purpose to delegate so little responsibility to the juvenile that he never learns how to make important decisions affecting his own life.

This standard outlines some of the powers that should not be given to the State agency. For example, placing a juvenile in or transferring him to an adult institution should be specifically prohibited. Few States would argue that juveniles should not be separated from adults. This concept of separation is founded on the principle that children and youths are emotionally and physically vulnerable to adults. Initiated in the 18th century, this commonsense notion was written into law in many States in the 19th century.

A similar proscription should apply to placements or transfers to mental hospitals for the purpose of extended care (see Standard 19.5). Such placements subvert the dispositional objectives specified by the family court. If the agency finds that it cannot provide appropriate services or control the behavior of the juvenile, it should advise the family court and recommend an alternative disposition.

Placing the juvenile outside the State also should be prohibited unless family court approval is first obtained. Such placement may undercut the court's powers to enforce its orders or violate the Interstate Compact for Juveniles to which all States have agreed to conform. Therefore, when the State agency believes that it is necessary to transfer a juvenile to another State it should petition the family court for consent to proceed in accordance with the provisions of the Interstate Compact for Juveniles.

It also should be recognized that consenting to certain actions—e.g., marriage or enlistment in the armed forces—which have profound impact both socially and legally upon the life of the juvenile—is generally restricted to the authority of the parent as natural guardian or a legally appointed guardian. Therefore, before any action of this type is taken, the parent's consent or that of a legal guardian should first be obtained. If complications arise in securing such approval, the State agency should petition the family court to examine the case.

In addition, the power of consenting or refusing to consent to the administration of any nonroutine medical care or surgical treatment also lies within the authority of parents or legal guardians. It is important that they be fully advised of this right and reassured on this point. The limitations on the State agency's authority to take action should be clearly stated in laymen's language, and copies should be made available to parents or guardians. These limitations should provide, among other things, that medical experimentation is prohibited, that prescriptive drugs could never be administered except at the specific direction of a physician, that no medical care or treatment that conflicts with the religious tenets of the juvenile, parent, or guardian will be administered (barring an order by the family court in an emergency situation), and that chemical restraints to control the juvenile's behavior will not be used unless absolutely necessary to prevent serious injury to the juvenile.

The State agency also should insure that important decisions are not delegated to low-echelon personnel. For example, decisions on initial placements, transfers, and releases should be made by the regional director or a designated deputy in consultation with the appropriate program and staff. This will facilitate accountability of decisionmakers and help insure that juveniles are not lost in the system.

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3. "Juveniles—The Child, Medicine, and the Law," *Mississippi Law Journal*, Vol. 39, 1968.
4. *In re Karwath*, 199 N.W. 2d 147 (Iowa 1972).
5. "Parent and Child—State's Right to Take Custody of a Child in Need of Medical Care," *DePaul Law Review*, Vol. 12, 1963.
6. Rodman, Hilary. "Children Under the Law," *Harvard Educational Review*, Vol. 43, 1973.
7. *State* v. *Perricone*, 37 N.S. 563, 181 A. 2d 751 (1962).

Related Standards

The following standards may be applicable in implementing Standard 19.6:

19.1 Purposes of Juvenile Corrections
19.4 General Authority and Responsibility for Services
19.5 Specific Responsibilities

Standard 19.7

Right to Refuse Services

Although all juveniles committed to the State agency should be expected to participate in any programs or services set forth in the family court's dispositional order, the concept of the right of the juvenile to refuse rehabilitative services should be respected.

Rehabilitative services are counseling, religious programs, student government, and other activities in which nonadjudicated juveniles would not be required to participate.

Commentary

This standard asserts the right of the juvenile to refuse services unless the services are required by the dispositional order of the family court, are legally required for all juveniles (e.g., education), are necessary for the protection of the juvenile's health, or are services of such a nature that the juvenile must have a reasonable exposure or experience with them in order to make an informed decision to either accept or reject them.

Conferring the right to refuse services on adjudicated delinquents rests on the assumption that juveniles are competent to determine the extent of their own participation. As is true of most presumptions, the presumption that a particular juvenile is competent should be rebuttable. Only upon a showing that a juvenile is incompetent should the refusal to participate be overridden. Incompetence should be established by the same procedures and standards applicable in competency hearings for adults. If the State sufficiently establishes a juvenile's incompetency, a guardian should be appointed to assert the juvenile's rights, including the right to refuse services.

Generally, however, adjudicated juveniles as competent individuals should be presumed capable of asserting their own interests and making most decisions that affect their lives. Professor Sanford Fox argues that "far from being presumptively incompetent," juveniles "are bordering on the acquisition of full rights of citizenship so that the presumption should be the other way—that they do know best—better presumptively than others, save perhaps their own parents, which is good for them" [Fox, "The Reform of Juvenile Justice: The Child's Right to Punishment, 25 *Juvenile Justice*, pp. 2, 5–6 (1974)].

As noted by Professor Fox, children are often required to do certain things by their parents; parents are presumed to have their children's best interests in mind. The authority of correctional personnel should not, however, be equated with parental authority. Requiring a juvenile's attendance at Sunday school as a condition of probation, for example, has been held unconstitutional [*Jones* v. *Commonwealth*, 185 Va. 335, 38 S.E. 2d 444 (1964)]. On the other hand, when the court has made a specific order that the juvenile should participate in some specialized rehabilitative program, that order should be carried out.

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Related Standards

The following standards may be applicable in implementing Standard 19.7:

19.4 General Authority and Responsibility for Services
19.5 Specific Responsibilities
24.11 Rehabilitative Services

Standard 19.8

Duties of the State Agency—General

The State agency should exercise leadership in working with other public and private agencies and citizens' organizations to develop and implement comprehensive programs to provide needed services for juveniles who have been adjudicated delinquent. The State agency should assure that these services are provided equally throughout the State. In addition, the agency should:

1. Develop, maintain, and revise a long-range plan for its operations;

2. Collect, evaluate, and disseminate statistics and information regarding the nature, extent, and causes of juvenile delinquency, and conduct research and evaluation including studies and demonstration projects on all aspects of juvenile delinquency;

3. Encourage and assist in the development of innovative programs for the diversion of juveniles from the juvenile justice system, taking into consideration the safety of the community and the best interests of the juveniles involved;

4. Develop written instructional and standard-setting materials with respect to the State agency's programs and consult with other public and private agencies regarding its programs;

5. Establish an advisory citizens' committee to assist the State agency in assessing the effectiveness of juvenile corrections programs; and

6. Enter into contracts and agreements with the Federal Government with respect to the receipt of Federal funds for delinquency programs and for the care of juveniles found to be delinquent by the Federal courts and committed for care and treatment.

Commentary

A modern juvenile corrections agency must be future oriented. It must consider its goals and objectives in relation to changing environments, social pressures, and political forces. To do this, the agency must develop, maintain, and constantly revise a long-range plan for its operations. The plan must be flexible and amenable to change in the light of new knowledge and/or external forces. This reality of quick obsolescence should not deter the agency from adopting long-range plans. It should only guarantee that the plans be broad in scope, general in terms, and flexible in format. Annual revisions of the plan will keep it up to date.

Such comprehensive planning requires the collection, evaluation, and dissemination of statistics and information regarding the nature, extent, and causes of juvenile delinquency. Indepth studies also need to be made of special programs, demonstration projects, and program mutations that just grew as a result of someone's creativity and imagination. In most jurisdictions there is a paucity of such programs, and it should be the responsibility of the State agency to develop such projects on its own or to encourage and assist local communities to establish them.

These projects should include not only the care and supervision of adjudicated delinquents but also programs for prevention and diversion. In this latter field many community groups are struggling with the attractive but elusive concepts of delinquency prevention and need consultation and advice on how to set up projects that can be properly coordinated with the juvenile correctional machinery. The State agency is in a strategic position to so coordinate these efforts that each makes a significant contribution to the sum total of knowledge about the juvenile correctional field. Duplicative projects frequently can be avoided and special emphasis or components can be added to projects. Through a coordinated system of evaluation, the State agency also can suggest areas for further inquiries into the causes of delinquency and methods for its control. It can formulate research projects to develop new knowledge and test old beliefs.

The State agency also should encourage evaluation efforts at the local level, wherever feasible. Small jurisdictions frequently have neither the knowhow nor the resources to set up statistics-collecting machinery. Frequently, the State agency can make a valuable contribution by providing this service under some type of contractual agreement.

Another area in which the State agency can assert its leadership is in standard setting. One of the most serious charges that can be leveled against the juvenile justice system is that its greatest strength and virtue—its flexibility—sometimes leads to substantial disparities in the way justice is meted out. This is due to the lack of standards and guidelines governing the policies and procedures of the juvenile justice apparatus. Specific standards need to be developed by the State agency in concert with those who will be applying the standards. The process of setting standards will in itself result in more uniformity in dispositions. Handbooks and manuals giving policy guidance and procedural details should supplement the standards. Obviously, statutes and court decisions provide certain restraints and parameters for the actions that have to be taken, but the juvenile justice system is identified with wide latitude and discretion and the key to maintaining a viable system is to provide a reasonable framework within which these decisions may be made.

To assist the agency in measuring the effects of its standard-setting operations, as well as other parts of its programs, a citizens' advisory committee should be formed. This committee should be broadly representative of the community as a whole, but special efforts should be made to include young people who have a thorough knowledge of how the juvenile justice system is actually operating and how the young people of the community perceive it to be operating. The committee should concern itself primarily with budgets, policies, and procedures. It should speak out forcefully on how much it thinks the community should spend on juvenile justice and the manner in which the funds should be spent. It need not serve as the community's watchdog over the juvenile justice system, but it should be the community's liaison with the system. If the system is sputtering and is the target of criticism, the committee can provide constructive suggestions for meeting this criticism. The State agency should provide sufficient staff so that the committee can fully meet its obligations.

In addition, the requirements of innovative and developmental programming dictate that the State agency have the capacity and the authority to enter into contracts with the Federal Government and private foundations in order to receive funds to experiment with new concepts and develop new ways of approaching the delivery of services for young people committed for correctional care.

Each of the above duties speaks indirectly to the issue of accountability. This standard dictates that the agency be accountable to the court for carrying out dispositional orders, to the public for insuring their protection through the implementation of the statutory mandate and expenditure of public funds, and to the juvenile clients for the provision of basic levels of care, protection, and access to required services. In this sense, this standard requires the agency to perform its duties with the view that it is to minimize or control its scope, rather than, as most agencies do, continuously broaden its scope at the expense of providing effective services to its clientele.

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3. Joint Commission on Correctional Manpower and Training. *Research Report.* Washington, D.C.: Joint Commission on Correctional Manpower and Training, 1969.

4. Kast, Fremont, and Rosenzweig, James. *Organization and Management: A Systems Approach.* New York: McGraw-Hill, 1970.

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6. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

7. Ohmart, Howard. *Administrative Principles and Program Structures of an Independent State Youth Correctional System.* Sacramento: California Department of Youth Authority, 1965.

Related Standards

The following standards may be applicable in implementing Standard 19.8:

3.29 Justice System—Diversion
19.3 Provision of Services
19.10 Training

Standard 19.9

Personnel

The State agency should adopt personnel policies, practices and procedures that provide that all employees of the State agency who are employed in programs for the care and rehabilitation of delinquents will come within the provisions of a merit system.

There should be a strong commitment to the recruitment and employment of staff at all levels on an affirmative action basis. This commitment should include an affirmative action policy and plan for implementation including, but not limited to, the elimination of discrimination against the employment of women in juvenile corrections and the elimination of policies that bar the employment of capable, qualified exoffenders.

The State agency should also develop:

1. A grievance procedure to be used as the principal vehicle for the resolution of conflicts between employees and the State agency's policies and practices. Information on this procedure should be disseminated to all employees.

2. A code of conduct for all employees. This code should become part of the employment contract entered into by the State agency with each of its employees and should also be a part of any contract for purchase of services.

3. Policies and procedures for communicating with its employees concerning wages, hours, and working conditions.

Commentary

The increasing complexity and sensitivity of juvenile corrections demand that the State employ individuals with outstanding skills and abilities to run its programs. This task necessitates constant improvement in existing merit systems in order to attract and maintain a high-quality work force. Personnel practices must be flexible and responsive to the needs of the State agency's clientele as well as to employees.

The degree of heterogeneity found within an agency's work force determines to a large extent the degree to which it can deal with the wide variety of complex issues generated by the programs that it operates. For example, an agency of juvenile correctional services that is made up totally of one ethnic group restricts its ability to deal effectively with members of other ethnic groups. For this reason, it is important that the personnel of a juvenile corrections program reflect to the extent possible the ethnic, racial, and religious composition of the group they seek to serve.

A State juvenile correctional agency must be committed to an affirmative action policy that clearly demonstrates that the agency is opposed to discrimination and is committed to full, equal employment for all. Such an affirmative action program can help to reduce the problems generated when juveniles perceive that the system that cares for and controls them is operated in ways that are not fair, not equal, and not ethnically representative. For example, the presence of women in correctional programs typically run by men can help to overcome the problems associated with stereotyped roles, e.g., women are clerical but never professional workers in correctional institutions. Equal hiring practices for women also can have other benefits for the correctional programs because they tend to help normalize what is otherwise an abnormal situation.

A strong affirmative action program also should insure that capable, qualified exoffenders receive special assistance in finding ways to regular paying positions within the organization that previously cared for and controlled them. Exoffenders often have particular skills that are useful in working with juveniles in correctional institutions. In order for these entry opportunities to be meaningful, however, career ladders must be available that permit the qualified exoffender to move from an entry position to a more traditional and conventional civil service job.

The right and opportunity for employees to easily and fairly aggrieve alleged wrongs also are critical to the State agencies. A clearly understood, easily operated formal grievance procedure is essential to the resolution of conflict between employees and the agency. It is an example of fairness and justice within what could be an unfair and unjust system.

Staff workers in a juvenile correctional institution are in a position of considerable responsibility in terms of the impact they have on juveniles when they carry out the agency's mandates. For this reason, it is important that the agency develop a code of conduct for all staff members over and above the minimum requirements imposed on other public employees. This code should govern agency personnel's relationships with adjudicated juveniles and members of the public. The code of conduct should be a part of the employment contract with each employee. Of equal importance, employees of other public or private agencies with whom the agency contracts should be informed of the code of conduct and the State agency should be assured that adherence to the code is agreed to at the time the contract is signed.

The State agency also should have clearly enunciated policies and procedures, understood by all employees, for communicating with employees regarding wages, hours, and working conditions.

References

1. Etzioni, Amitai. *A Comparative Analysis of Complex Organizations.* New York: Free Press, 1961.

2. Jun, Jong, and Storm, William. *Tomorrow's Organizations: Challenges and Strategies.* Glenview, Ill.: Scott Foresman, 1973.

3. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Dispositions,* draft (Linda Singer, reporter). New York: Institute for Judicial Administration, 1976.

4. Kast, Fremont, and Rosenzweig, James. *Organization and Management: A Systems Approach.* New York: McGraw-Hill, 1970.

5. Nelson, Elmer K., Jr., and Lovell, Catherine. *Developing Correctional Administrators.* Washington, D.C.: Joint Commission on Correctional Manpower and Training, 1969.

6. President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* Washington, D.C.: Government Printing Office, 1967.

7. Rawls, John. *A Theory of Justice.* Harvard University Press, 1971.

Related Standards

The following standards may be applicable in implementing Standard 19.9:

19.8 Duties of the State Agency—General
19.10 Training

Standard 19.10

Training

The State agency should provide or assure the provision of comprehensive training programs for employees of the State agency and for the employees of other public and private agencies engaged in activities related to its programs.

Commentary

In order to insure delivery of the level of service called for by the standards in this section, the State agency should provide or assure the provision of comprehensive training programs not only for its own employees but also for others in public and private agencies working in the juvenile correctional field. This should include preservice and inservice training for all journeyman positions as well as supervisory and management training. The latter type dictates some form of management assessment program that helps determine who needs what kind of training and when. Training for employees of other public and private agencies may be carried out by contractual agreements. This should make possible the provision of high-quality training at low cost for agencies that otherwise might not be able to afford any kind of training.

Previous standards adopted by the National Advisory Commission on Criminal Justice Standards and Goals and those established in the *Morales* v. *Turman* decision indicate that preservice and inservice training each should be a minimum of 40 hours per year. However, this report opts for a more comprehensive approach. It recommends a minimum of 80 hours per year in each of these categories, and 40 hours for supervisors and managers.

In those training programs conducted by the State agency itself, responsibility should be shared by the agency's central office and the program directors in the field. The central office should see that training resources are made available and coordinate training sessions around the State for maximum efficiency in the use of lecturers and hard-to-get films or other training aids. The central office also should maintain a file on course evaluations. And the program directors should organize schedules to allow adequate time to assure compliance with training requirements.

The following is a suggested format for training of all staff members with responsibility for providing direct services to juveniles:

Orientation. Orientation courses are geared to provide the uninitiated with a general introduction to the field of corrections and the role of the State agency. They introduce the ward/client in terms of background, problems, behavior, and needs. They also introduce new employees to State service and outline their rights, privileges, and general responsibilities.

Each new employee who is assigned responsibility for providing direct services to juveniles should receive a minimum of 80 hours of preservice training. And all preservice training should be completed prior to the employee's assuming actual on-the-job responsibilities. Preservice training should include, but not be limited to, the following: history, philosophy, and objectives of the state agency; overview of the court systems; human relations; general care and treatment of juveniles; State service regulations (pay, benefits, retirement, and so forth); insurance and medical programs; security and safety; incompatible activities and employee grievance procedures; immediate work environment; performance standards, monitoring and evaluation procedures; and, work hours, time off (vacation, sick leave, and so forth).

Inservice Training. All employees who have ongoing responsibilities for care and services to juveniles should receive a minimum of 80 hours inservice training per year. This training should be designed by employee and supervisor to assist the employee in achieving the professional objectives highlighted in the annual performance report, and to keep the employee abreast of new and relevant trends in the field of correctional treatment systems. The training should include, but not be limited to, the following: specific specialized service modalities, group control techniques, small group interaction, large group meetings, individual counseling techniques, cultural diversity, human relations, safety and security, ward grievance procedures, and disciplinary decision-making systems.

Supervisory and Administrative Training. All employees promoted to supervisory and administrative levels should receive a minimum of 40 hours of inservice training during their first 12 months at the new levels. Supervisory and administrative inservice training should include, but not be limited to, the following: basic supervision of staff, disciplinary procedures, departmental budget and personnel transactions, human relations in management, employee-employer relations, conflict resolution, employee development and affirmative action techniques, and administration of legal rights.

References

1. American Correctional Association. *Manual of Correctional Standards*, 3d ed. Washington, D.C.: American Correctional Association, 1966.

2. California Department of Youth Authority. *Rehabilitation Services Administrative Manual*. Sacramento: State of California Documents Section.

3. California Department of Youth Authority. *Standards for Juvenile Homes, Ranches and Camps*. Sacramento: State of California Documents Section, 1972. (Revised periodically.)

4. Joint Commission on Correctional Manpower and Training. *Targets for In-Service Training*. Washington, D.C.: Joint Commission on Correctional Manpower and Training, 1965.

5. Joint Commission on Correctional Manpower and Training. *Perspectives on Correctional Manpower and Training*. Washington, D.C.: Joint Commission on Correctional Manpower and Training, 1969.

6. Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93–413).

7. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

8. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Corrections*. Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 19.10:

19.8 Duties of the State Agency—General
19.9 Personnel

Standard 19.11

Volunteers

The State agency should develop a strong volunteer program to enrich and supplement all services to juveniles.

Commentary

The development of a strong volunteer program is an effective and practical method of increasing and supplementing services to juveniles. Volunteers can assist the agency's staff by delivering services that cannot be provided through State resources. The agency should recruit and use volunteers from all ranks of life to supplement its program resources —from minority groups, the poor, inner-city residents, exoffenders who can serve as success models, and professionals who can provide a variety of expertise and skills. Volunteers should receive training to give them an understanding of the needs and lifestyles of adjudicated delinquents and acquaint them with the objectives and problems of the juvenile justice system.

> It must be remembered that volunteers can contribute much more than their services to correctional programs. Many of those now working as volunteers are "gatekeepers" in the community, persons who can help offenders and ex-offenders secure jobs, schooling, and recreation. Perhaps their greatest contribution to corrections lies in demonstrating that offenders are people who can become useful contributors to the community, people with whom it is a satisfaction to work. In sum, the volunteer can serve as a bridge between corrections and the free community, a bridge which is sorely needed. [National Advisory Commission on Criminal Justice Standards and Goals, *Corrections*, pp. 480–481 (1973).]

The involvement of volunteers also helps educate the citizenry about the correctional process and encourages them to assume their rightful responsibilities for it. This can be assured only through the direct involvement of volunteers in both program planning and the delivery of services. Therefore, the State agency should make every effort to encourage and facilitate the expansion of citizen involvement in order to increase community acceptance and support of juvenile correctional programs.

References

1. American Bar Association. *Volunteer Parole Aide: Questions and Answers.* New York: American Bar Association, no date.

2. Goldfarb, Ronald, and Singer, Linda. *After Conviction: A Review of the American Correctional System.* New York: Simon and Schuster, 1973.

3. Joint Commission on Correctional Manpower and Training. *Volunteers Look at Corrections.*

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4. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

5. National Information Center on Volunteerism. *Newsletter* (Ivan Scheier, ed.). *Volunteer for Social Justice*. Boulder, Colo. (Produced in cooperation with the Boulder, Colo., County Court.)

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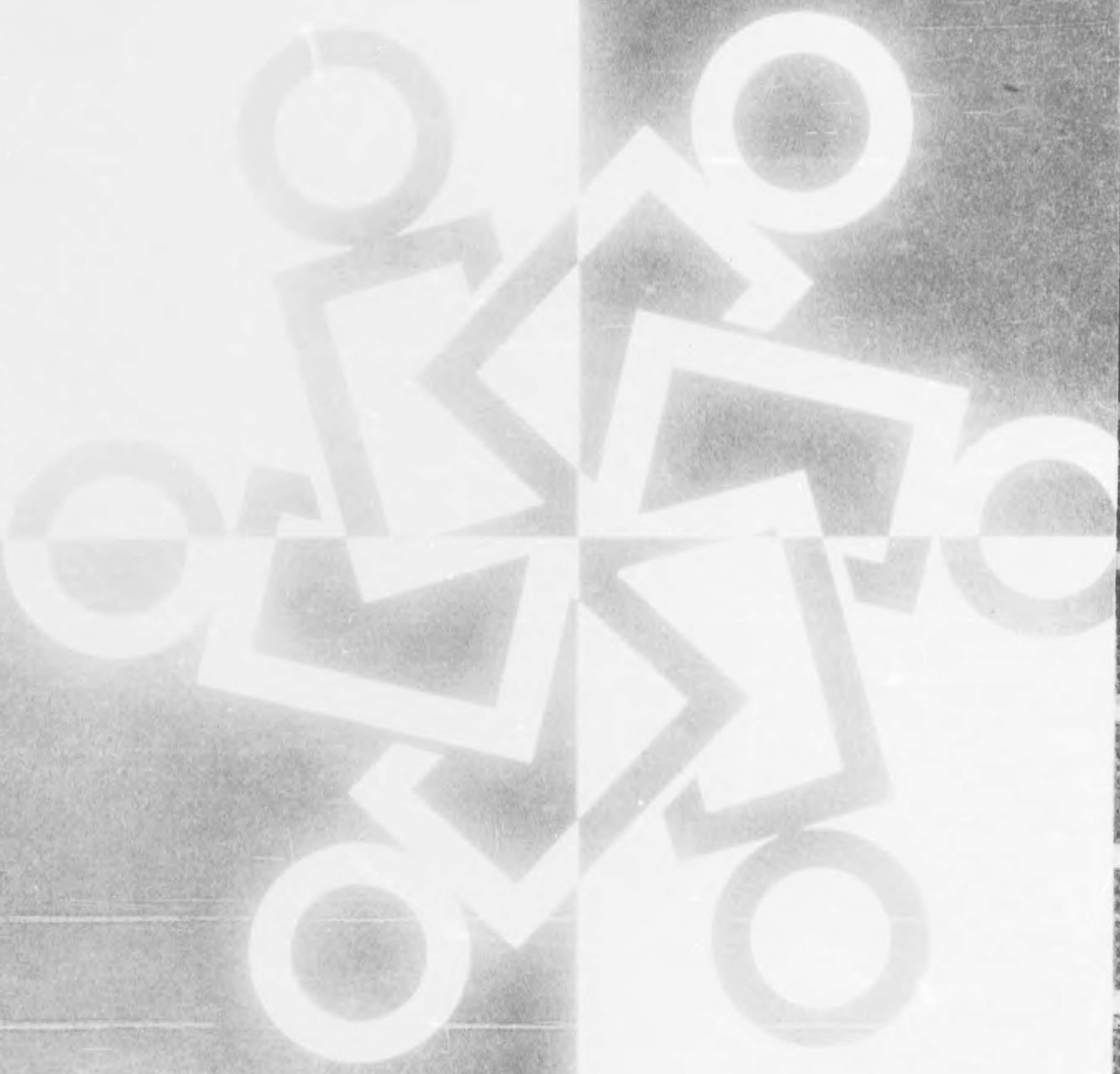
Related Standard

The following standard may be applicable in implementing Standard 19.11:

19.8 Duties of the State Agency—General

Chapter 20

Grievance and Disciplinary Procedures



INTRODUCTION

The first portion of this chapter focuses on grievance procedures. Juveniles living in the artificial environment of an institution or detention facility or under community supervision are subject to the authority of others and may be subject to arbitrary decisions and abuses of authority. It is essential to their basic dignity and self-respect that they have the means for influencing reasonable changes in their status and, when confined in institutions, the conditions of their confinement.

Grievance procedures provide a mechanism that enables juveniles to influence their lives and environment in an appropriate way. These procedures give the juveniles new skills for cooperation and negotiation with others while recognizing and enhancing the juveniles' dignity and self-esteem. Confronting problem situations through grievance procedures facilitates the kind of personal development that for many juveniles is a necessary prelude to the successful handling of problems in a nondelinquent manner.

Formalized procedures are a way to reduce the conflict and tension inherent in any correctional setting or program. In particular, they provide a needed mechanism for maintaining stability within correctional institutions.

The first two standards focus on hearings, representation, appeal, and review in grievance procedures. They begin by vesting the State juvenile intake and corrections agency with responsibility for developing and implementing grievance procedures. These procedures should enable juveniles to challenge the substance or application of any policy, behavior, or action directed toward the juvenile by the State agency. They also should apply to other organizations that exercise jurisdiction over juveniles through contracts with the State agency. The standards further specify that a prompt, full hearing should be conducted and that all parties to the grievance should be given an opportunity to be present and participate. In addition, the standards provide the juvenile with the right to select a representative for the hearing and outline the representative's rights (see Standard 20.1).

To insure fairness and uniformity of treatment, appeal procedures also should be provided. Therefore, Standard 20.2 specifies that levels of review that coincide with the major decisionmaking levels of the organization should be established. It further indicates that any party to a grievance should be authorized to appeal a decision to the next level of review and that the final level of advisory review should be made by an independent party or parties outside the State agency.

The remaining standards in the chapter focus on disciplinary procedures. Effective disciplinary procedures are essential to the orderly protection of correctional facilities, staff, and juvenile clients and the development of self-discipline by the juveniles. In recent times, institutional disciplinary procedures have been the subject of increasing attention; past abuses have been exposed, and a number of judicial decisions have outlined the rights of the accused.

Due process of law requires the State agency to act fairly and equally in its relations with juveniles. Moreover, the liberty of juveniles committed to the agency should be restricted only to the extent necessary to carry out the correctional purposes for which the were committed by the courts. In addition, thoughtful corrections personnel will recognize that constructive changes in the juvenile's behavior can take place only in an atmosphere of fairness and justice in which juveniles are treated in a manner that complies with reasonable expectations for the moral and ethical agents of a democratic society. The standards that follow attempt to set forth the general contours of effective disciplinary procedures.

They begin by outlining the purposes of disciplinary procedures and indicating that these procedures should treat juveniles fairly and assure that procedural safeguards are provided to juveniles accused of major institutional rule violations. The standards also specify that cruel and unusual punishment should be prohibited in juvenile correctional facilities and that the rights of juveniles who are the victims of criminal or delinquent acts to file legal complaints should be protected (see Standard 20.3).

Next, the standards stress the importance of assuring that juveniles have prior knowledge of rules through orientation and by posting of written regulations. Juveniles in secure facilities should receive such orientation within 24 hours of their arrival. Corporal punishment should be prohibited. A number of limitations on the use of restriction to secure quarters (discipline unit) are set forth in Standard 20.4.

The remaining standards focus on the hearing and appeal rights of the accused juvenile. They indicate that an accused juvenile should have the right to an impartial and objective factfinding hearing when accused of a major rule violation that might result in a deprivation greater than 24 hours restriction to secure quarters (discipline unit). In addition, they call for prior written notice of the allegations; the right to substitute counsel; the right to confront accusers, call witnesses, present evidence; and the right to a written record of the proceedings (see Standard 20.5).

Standard 20.6 specifies the juvenile should be accorded the right to appeal disciplinary proceedings to an independent and impartial hearing officer within the State agency whenever procedural safeguards are violated, important new evidence is discovered, or the disposition is disproportionate in relation to the finding.

References

1. Breed, Allen. *Administering Justice: Implementation of the California Youth Authority's Grievance Procedure for Wards.* Sacramento: California Department of Youth Authority, 1976.

2. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

4. National Institute of Law Enforcement and Criminal Justice. *Controlled Confrontation.* Washington, D.C.: Government Printing Office, 1976.

5. Toal, William. "Recent Developments in Correctional Case Law," *Resolution*, Summer 1975, vol. 1.

Standard 20.1

Grievance Procedures—Hearings and Representation

The State agency should develop and implement grievance procedures to provide a means for juveniles to challenge the substance or application of any policy, behavior, or action directed toward the juvenile by the State agency or any of its program units. Complaints about the policy, behavior, or action of other organizations that exercise jurisdiction over juveniles pursuant to contractual relationships with the State agency should be covered by the grievance procedures.

A full hearing should be conducted promptly and all parties to the grievance should be given an opportunity to be present and to participate in the hearing.

The juvenile should be entitled to select a representative from among other juveniles, staff, or volunteers regularly participating in the program. Representatives should be entitled to attend and participate in any informal conferences, hearings, or reviews in which the juvenile participates.

Commentary

This standard is based on the assumption that the development and maintenance of juveniles' self-respect and dignity require that they have some means for influencing and changing decisions that affect their lives. It also assumes that, when provided with appropriate opportunities, each juvenile has the knowledge, ability, and skill to participate in ordering his or her own life.

The purpose of formal grievance procedures is to insure that grievances or complaints are given an opportunity for full and fair hearing, consideration, and resolution. The procedures outlined in this standard are intended to supplement but not replace existing informal channels for resolving grievances.

A grievance is a complaint about the substance or application of any written or unwritten policy of the State agency or any of its program units or a complaint about any behavior or action directed toward the juvenile by the staff or other juveniles. To insure fairness and uniformity of treatment, complaints about the actions or policies of other organizations that have jurisdiction over juveniles through contractual relationships with the State agency should also be covered by the grievance procedures. Complaints about actions or policies of the family court would, however, not be covered by the agency's grievance mechanism. Instead, they should be handled by the appellate courts. Cases may arise in which a grievance discloses a rule or law violation. In these situations action under the disciplinary procedures may be appropriate (see Standards 20.3 and 20.4).

At some level, the grievance procedures should provide a prompt, full hearing. All parties to the grievance should be given an opportunity to be present and to participate. The concerned parties and their representatives should have the right to sit down together, discuss, confront, thrash out, and take a look at all of the facts of the grievance as well as all possible resolutions, so that both viewpoints are given a full airing and are public knowledge.

Grievants also should be entitled to select a representative from among other juveniles, staff, or volunteers. Because juveniles are often inarticulate, they may need a representative to assist them in presenting their point of view. The representative also can play an important role in protecting the juvenile's interests.

References

1. Dillingham, David, and Klaus, Alan. *Right to be Heard*. Sacramento: State of California Documents Section, 1975.

2. *Morales* v. *Turman*, (E.D. Tex. 1974), Civil #1948, Clearinghouse No. 57235.

3. Nicolau, George. "Grievance Arbitration in a Prison: The Holton Experiment." Paper presented at the Second Annual Conference of the Society of Professions in Dispute Resolution, Chicago, Nov. 11–13, 1974.

Related Standards

The following standards may be applicable in implementing Standard 20.1:

20.2 Grievance Procedures—Appeal and Review
20.3 Purposes of Disciplinary Procedures
20.4 Orientation to Rules and Regulations

Standard 20.2

Grievance Procedures—Appeal and Review

The grievance procedures should provide for levels of review, which should be kept to a minimum. These levels should coincide with the major decisionmaking levels of the organization.

Any party to a grievance, juvenile or staff, should be authorized to appeal a decision to the next level of review. Time limits should be established for the receipt of responses at each level of review and for any action that must be taken to put a response into effect.

The final level of advisory review should be made by an independent party or parties outside the State agency.

Commentary

In institutions and under community supervision, just as in general community life, not all decisions are perfect, not all viewpoints are fully heard, and not all attempted solutions present the best or only solution. Recognizing this fact, this standard outlines the general contours of appropriate procedures for appeal and review in grievance cases.

Grievances should be resolved at the earliest possible time and at the lowest level in the organizational hierarchy. All parties should make a concerted effort to reach an acceptable solution in an expeditious manner. But cases will arise in which referral to a higher level of authority may be necessary for resolution. Thus, the standard specifies that any party to a grievance, juvenile or staff, should be authorized to appeal a decision to the next level of review. Levels of review should coincide with the major decisionmaking levels of the organization. To avoid cumbersome procedures and unnecessary delays, the number of levels of review should, however, be kept to a minimum.

This standard also indicates that time limits should be established for the receipt of responses at each level of review and for any action that must be taken to put a response into effect. The principle that justice delayed is justice denied particularly applies to grievance procedures in a juvenile correctional setting. Unresolved grievances in juvenile institutions often cause tension and in some instances, violence. Thus, clear communication within a reasonably brief time is a necessity.

Provisions also should be made for a final level of advisory review by an independent party or parties outside the State agency. Agency officials may lack credibility with delinquent juveniles. Usually a certain amount of mistrust exists between youths and staff members. Having a level of review outside the State agency provides an appeal to someone who is visibly able to hold an independent, objective hearing and impartially recommend a reasonable solution to the grievance.

References

1. Breed, Allen F. *Administering Justice: Implementation of the California Youth Authority's Grievance Procedure for Wards.* Sacramento: California Department of the Youth Authority, 1976.

2. National Institute of Law Enforcement and Criminal Justice. *Controlled Confrontation.* Washington, D.C.: Government Printing Office, 1976.

3. Singer, Linda. "Prison Violence, Prison Litigation: Is There a Better Way?" *Crime and Delinquency,* July 1973.

Related Standard

The following standard may be applicable in implementing Standard 20.2:

20.1 Grievance Procedures—Hearings and Representation

Standard 20.3

Purposes of Disciplinary Procedures

The purposes of the State agency's disciplinary procedures should be to insure the orderly protection of the facility, staff, and juvenile clients and to encourage the development of self-discipline by the juveniles. Such procedures should treat juveniles fairly and should assure that:

1. Procedural safeguards are provided to juveniles accused of major institutional role violations;

2. Cruel and unusual punishment is prohibited within juvenile correctional facilities; and

3. Juveniles in correctional facilities who are victims of criminal or delinquent acts have the same rights to file legal complaints as juveniles outside of such facilities.

Commentary

Effective disciplinary procedures are necessary to insure the orderly operation of the facility and the protection of the staff and juvenile clients. But they serve another important purpose as well—that of encouraging self-discipline by the juveniles. Truly constructive changes in juveniles' behavior can take place only in an environment in which they are treated fairly. Therefore, the standards on juveniles' rights in institutional disciplinary proceedings are based both upon what the law requires and what is viewed as right and just. The liberty of persons committed to the State agency should be restricted only to the extent necessary to carry out the correctional purposes for which they were committed by the family court.

This standard indicates that the State agency should establish clearly defined disciplinary procedures. It emphasizes that juveniles should be treated fairly at every phase of the proceedings and specifies that procedural safeguards should be provided to juveniles accused of major institutional rule violations. In 1974 the U.S. Supreme Court decided *Wolff* v. *McDonnell*, unanimously affirming that the 14th amendment's due process clause protects residents of correctional institutions facing punitive sanctions. Due process of law requires that the State agency act both fairly and equally in relations with juveniles. The specific guidelines for procedural safeguards are set forth in Standards 20.4 through 20.6.

This standard also states that cruel and unusual punishment should be prohibited in juvenile correctional facilities. Punishment may be cruel and unusual because it gives the type of meaningless work assignments described in *Morales* v. *Turman* or because it is disproportionate in relation to the act that precipitated it. In addition to cruel and unusual physical deprivations, such as denial of a nutritious diet, punishments that result in dehumanizing and humiliating psychological effects should also be prohibited.

Finally the standard indicates that juveniles placed in correctional facilities should have the same right as juveniles outside such facilities to protect themselves from the illegal acts of others by filing legal complaints. The authority to initiate legal complaints against persons who victimize juveniles by criminal and delinquent conduct should not be limited to staff discretion.

References

1. Loewenstein, Ralph. "Accelerating Change in Correctional Law: The Impact of Morrissey," *Clearinghouse Review*, January 1974.

2. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

3. Toal, William. "Recent Developments in Correctional Case Law," *Resolution*, Summer 1975, vol. 1.

4. *Wolff* v. *McDonnell*, 94 S. Ct. 2963 (1974).

Related Standards

The following standards may be applicable in implementing Standard 20.3:

20.4 Orientation to Rules and Regulations
20.5 Hearing Rights of the Accused Juvenile
20.6 Appeal Rights of the Accused Juvenile

Standard 20.4

Orientation to Rules and Regulations

Juveniles should be assured of prior knowledge of rules through orientation and by posting of written regulations. Juveniles admitted to secure facilities should be given such orientation within 24 hours of their arrival.

Such rules and regulations should include the following:

1. Corporal punishment should be prohibited;

2. Restriction to secure quarters (discipline unit) should not be employed unless a juvenile detained in an institution:

- **a. constitutes a danger to himself or others;**
- **b. is in danger from others; or**
- **c. is likely to escape;**

3. All reasonable alternatives to restriction to secure quarters (discipline unit) should be considered before the determination is made to institute or continue such restriction. Any juvenile who is restricted should have access to an appeal procedure regarding the reasons for and/or the length of the restriction; and

4. Restriction to secure quarters (discipline unit) should not exceed 5 consecutive days.

Commentary

The courts have widely agreed that juveniles in any correctional setting should have the rules and the consequences of any violation of them set out and made available to them. Special care must be taken to assure that juveniles comprehend and understand the rules. The simple posting of the rules does not satisfy the agency's responsibility to make them known to all juveniles. There should be not only formal orientation to the rules and the consequences of rule violations, but also regular refresher training on the subject.

Rules and regulations should set ceilings on the kinds and degree of punishment the agency can administer to juveniles. For example, corporal punishment should be prohibited.

Also, although the use of restriction to secure quarters (discipline unit) may have temporary utility, it does not address the unmet needs that underlie delinquent behavior and cannot contribute to normal growth and development. The deprivation of outside contacts and other psychological damages resulting from the isolation inherent in confinement in secure quarters, are believed to be sufficient argument against its use except under extreme emergency situations.

Therefore, the standard states that restrictions of this nature should not be employed unless the juvenile constitutes a danger to himself or others, is in danger from others, or is likely to escape from the facility. Even in these situations all reasonable alternatives to restriction to secure quarters (discipline unit) should be considered. Such restriction should not exceed 5 consecutive days, and the juveniles should be able to appeal the restriction decision.

References

1. American Correctional Association. *Manual of Corrections Standards*. Washington, D.C.: American Correctional Association, 3rd ed. 1966.

2. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

4. National Conference of Superintendents of Training Schools and Reformatories. *Institutional Rehabilitation of Delinquent Youth*. Albany, N.Y.: Delmar Publishers, Inc., 1962.

5. National Council on Crime and Delinquency. *Standards and Guides for the Detention of Children and Youth*. Paramus, N.J.: National Council on Crime and Delinquency, 1961.

6. Toal, William. "Recent Developments in Correctional Case Law," *Resolution*, Summer 1975, vol. 1.

Related Standards

The following standards may be applicable in implementing Standard 20.4:

20.3 Purposes of Disciplinary Procedures
20.5 Hearing Rights of the Accused Juvenile
20.6 Appeal Rights of the Accused Juvenile

Standard 20.5

Hearing Rights of the Accused Juvenile

The rights of an accused juvenile should include the following:

1. The right to an impartial and objective factfinding hearing when accused of a major rule violation that might result in a deprivation greater than 24 hours restriction to secure quarters (discipline unit);

2. The right to a written notice of the allegations against him or her and the evidence upon which the allegations are based 48 hours in advance of the factfinding hearing;

3. The right to request a substitute counsel to represent him or her during the disciplinary proceedings. A substitute counsel may be a staff member, another juvenile (subject to the reasonable approval of the program director), or a volunteer who is a member of a regular volunteer program at the institution. Factfinders should assure that juveniles who do not comprehend the proceedings due to a lack of maturity or intellectual ability or because of the complexity of the factual questions at issue are provided with a substitute counsel. And translators should be provided when the juvenile does not speak English.

4. The right to confront accusers, call witnesses, and present written documents and other evidence at the factfinding hearing; and

5. The right to receive a written record of any true findings and the evidence relied upon. This should include a statement of the disposition and the reasons for the disposition.

Commentary

The U.S. Supreme Court's 1974 decision in *Wolff* v. *McDonnell* focused on the due process requirements for disciplinary hearings involving residents in adult correctional institutions. The court spelled out the following minimal due process requirements:

1. Advance written notice of charges must be given to the accused no less than 24 hours before appearance before the disciplinary hearing.
2. The accused should be allowed to call witnesses and present evidence "when permitting him to do so will not be unduly hazardous to institutional safety or correctional goals."
3. Substitute counsel should be provided to the accused in certain cases.
4. The factfinder must be impartial.
5. There must be a written statement by the factfinder to the evidence relied upon and the reasons for the decision.

This standard is intended to comply with the minimal procedural requirements outlined in *Wolff* and provide other safeguards viewed as essential. To assure adequate time for preparation, it is recommended that written notice of the allegations be provided 48 hours in advance of the hearing. A general application of the right to confront accusers, call witnesses, and present evidence is also endorsed. The court in *Wolff* did not view this right as a mandate of due process because of its concern about the risk of reprisals by adult prison inmates, one against the other, should the court declare this a constitutional requirement. However, in juvenile institutions where primary emphasis is on programs of reeducation and rehabilitation the likelihood of violent reprisals is far less severe. And because the right to confront accusers, call witnesses, and present evidence is so fundamental to a fair hearing, it is concluded that this procedural safeguard should be afforded to all juveniles placed in secure facilities. Similarily, this report recommends that the right to substitute counsel be available in all cases. Factfinders should assure that substitute counsel be provided when juveniles lack the maturity or intellectual capability to understand the proceedings. Translators should be provided when appropriate.

References

1. Harrington, Edward. "The Youth Authority's 1975 Stance on Ward Rights," *Youth Authority Quarterly,* Spring 1975, vol. 28.
2. *Wolff* v. *McDonnell,* 94 S. Ct. 2963 (1974).

Related Standards

The following standards may be applicable in implementing Standard 20.5

20.3 Purposes of Disciplinary Procedures
20.4 Orientation to Rules and Regulations
20.6 Appeal Rights of the Accused Juvenile

Standard 20.6

Appeal Rights of the Accused Juvenile

An accused juvenile should have the right to appeal disciplinary proceedings to an independent and impartial hearing officer within the State agency on any one of the following grounds:

1. The procedural safeguards provided for in the State agency's disciplinary system were not met;

2. New evidence is now available that would be relevant and material to the findings; or,

3. The disposition was disproportionate in relation to the finding.

Commentary

This standard provides accused juveniles the right to appeal disciplinary proceedings to an impartial and independent hearing officer within the State agency. The standard opts for an intraagency appeal mechanism for two reasons: appeals to the courts are subject to lengthy delay, and the agency's administrators are accountable for the procedures they administer and should be informed of any possible failure of these procedures. Administrators should also be concerned about the fundamental fairness of the actions taken against the juveniles whose care and custody is their responsibility. The minimal requirements of procedural due process alone will not guarantee fairness. Reason, sound judgment, and a review of the actions of others are necessary for any disciplinary system to realize its intent. Whenever procedural safeguards are not met, relevant and material evidence is subsequently discovered, or the disposition is disproportionate to the findings, appeal procedures should be available to the juvenile.

References

1. American Friends Service Committee. *Struggle for Justice*, 1971.

2. Berruti, Margaret, and DeNicocea, Gloria. *Ward Rights Handbook*. Sacramento: State of California Documents Section, 1976.

3. Toal, William. "Recent Developments in Correctional Case Law," *Resolution*. Vol. 1. New York: Hill and Wang, Summer 1975.

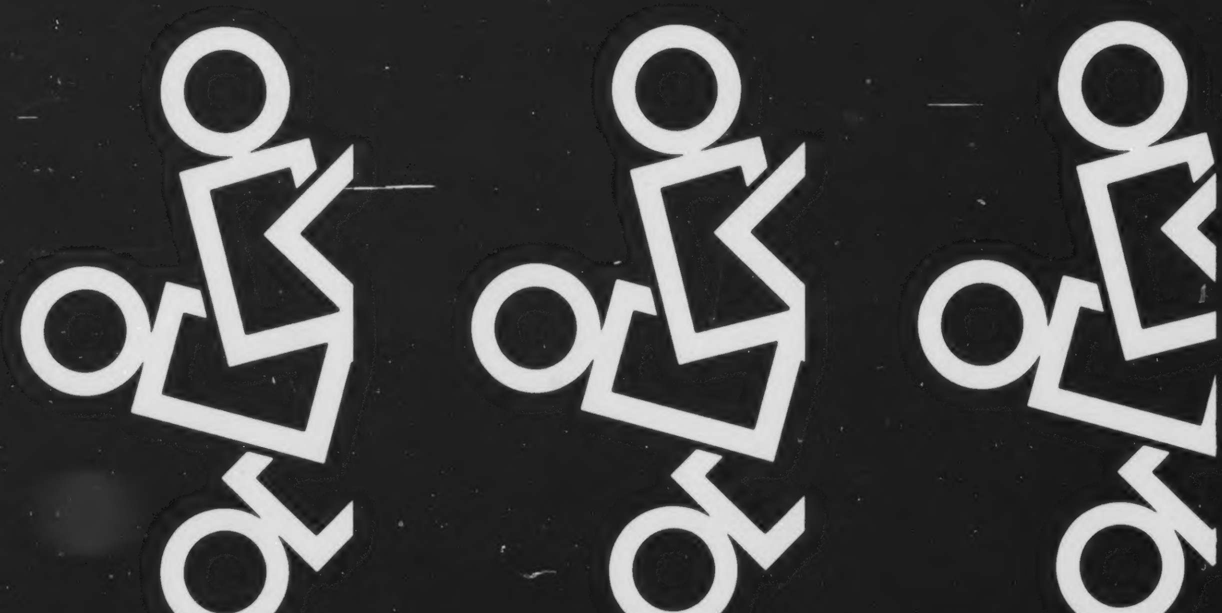
4. *Wolff* v. *McDonnell*, 94 S. Ct. 2963 (1974).

Related Standards

The following standards may be applicable in implementing Standard 20.6:

20.3 Purposes of Disciplinary Procedures
20.4 Orientation to Rules and Regulations
20.5 Hearing Rights of the Accused Juvenile

Chapter 21
Intake Services



INTRODUCTION

The intake process determines whether the interests of the public or of the juvenile require the filing of a petition with the family court. This process involves an assessment of both legal and social factors. An effective intake unit can eliminate those cases that do not fall within the court's jurisdiction on legal grounds, thus saving the court's time and that of all parties concerned. It can also adjust trivial complaints that do not require action by the family court.

In addition, through diversion and referral to other community agencies, the intake unit can provide appropriate services in those cases that do not require formal adjudication. In this manner, the intake unit can reduce the already oversized caseload of the court handling juvenile matters. Moreover, it can protect those juveniles who do not require formal judicial proceedings from the negative consequences of being labeled delinquent, as well as from the harmful effects of associating with more sophisticated delinquent juveniles.

Under present practice, more than half of the cases referred to juvenile intake do not proceed to formal adjudication. With increasing reliance on diversionary programs, this number will likely increase. Thus, the intake unit is clearly one of the most important components of the entire juvenile system. It makes a large number of decisions that have a major impact on the legal rights of juveniles and it plays a vital role in the corrections process.

The standards in this chapter highlight three important aspects of the intake process. First of all, they indicate that responsibility for intake should be vested in the State juvenile intake and corrections agency proposed earlier in this volume (see Standard 19.2). Intake services should screen applications for petitions to the family court, act for the court in developing the necessary information to make a dispositional order, and serve as the intake apparatus for the State agency in cases of children or families for which it has responsibilities for carrying out dispositional orders (see Standard 21.1). Moreover, as the commentary indicates, the agency responsible for intake in delinquency cases should likewise perform the intake function in cases involving the Endangered Child and Families With Service Needs. A single, unified intake unit should provide more uniform and equitable decisionmaking as well as facilitate the provision of more coordinated and effective services to children and their families.

Next, the standards focus on the intake services unit's responsibilities in processing applications for petitions to the family court in delinquency cases. They indicate that these applications should be processed within 48 hours in cases where the juvenile is in detention or shelter care and within 30 calendar days in all other cases (see Standard 21.2). Careful compliance with these time frames is very important. At present, the statutes of many States do not specify durational limits for juvenile detention. By giving priority to cases involving detention or shelter care and acting promptly, many of the negative impacts of these temporary placements can be mitigated.

Intake personnel should have clearly defined authority to either refer the case to the family court prosecutor for court action or to refer the juvenile and/or his family for noncourt services. In addition, they should be authorized to defer a decision on filing for up to 90 days in noncustody cases where the juvenile is referred to a noncourt service program. And, of course, they should also have the authority to dismiss applications that are not substantiated by the available facts. This range of options should provide the intake unit with sufficient flexibility to adequately process all applications.

The final standard in this chapter specifies that intake personnel should also be responsible for preparing the dispositional report for the family court (see Standard 21.3). Because the dispositional report covers many of the same subjects as the initial intake investigation, this aproach avoids needless duplication. Moreover, many of the same skills are required to prepare this report as are necessary to make the decisions involved in processing applications for petitions. Thus, the intake unit should already be staffed with those personnel best qualified to prepare dispositional reports.

References

1. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

2. National Juvenile Law Center. *Law and Tactics in Juvenile Cases*. St. Louis: National Juvenile Law Center (2d ed. 1974).

3. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. Sarri, Rosemary and Levin, Mark. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States*. Ann Arbor: University of Michigan National Assessment of Juvenile Corrections, 1974.

Standard 21.1

State Agency Responsibility for Intake Services

Intake services should be the responsibility of the State agency. These services should be designed to serve three functions:

1. To act for the family court in screening applications for petitions;

2. To act for the family court in developing the necessary information to make a dispositional order; and,

3. To act as the intake apparatus for the State agency in the cases of children or families for which the State agency has responsibilities for carrying out dispositional orders.

Commentary

Intake services often represent the initial contact made with a child or family by official representatives of the juvenile justice system. One of the primary functions of intake is to determine whether or not family court proceedings are necessary and appropriate. Many children referred to the family court by private citizens, law enforcement officers, or social agencies might better be served by another public or private organization or agency. Some need no service at all. For others, diversion from the formal proceedings and referral to a noncourt service program may be the most appropriate way to dispose of the case.

This standard specifies that intake services should be organized and administered by the proposed State agency on a statewide basis. This recommendation is offered in preference to having intake services administered either by the family court or by a local governmental agency. Removing the administration of intake from the court should enable the court to be concerned only with the judicial functions of factfinding and making dispositions. It will not have to preempt the field of social welfare by arranging for appropriate social services when a decision is made to divert the child from the court process. Vesting the State agency with responsibility for intake also removes the concern as to whether the court can be impartial and unbiased—as it must—while at the same time evaluating the work of intake personnel who are under its administrative control.

Placing administrative responsibility at the State, rather than at the local, level also has a number of advantages. This will facilitate a more uniform application of the criteria for when a petition is to be filed and when a child is to be detained or placed in temporary out-of-home custody pending his court hearing. By centralizing the intake function, guidelines can be applied more consistently, staff can more easily be held accountable for their decisions, and the detention of juveniles can more likely be held to the absolute minimum required for public safety. Consistent detention criteria and guidelines should be applied to all cases regardless of whether the juvenile is detained by the police, a private agency, or the probation department. The same procedures should also govern the cases of juveniles for which the agency has responsibilities for carrying out dispositional orders. Placing responsibility for detention decisions with the intake unit, and thus reducing the number of personnel who make these decisions, should facilitate a more consistent and fair interpretation of detention criteria and actions.

State administration will also increase the likelihood that juveniles in all areas will receive the same level of services. A State system can often provide skills and services that would be too costly for a local governmental agency. The availability of these specialized services can improve the diagnostic input into the decisionmaking process.

The same State agency should perform the intake function not only in delinquency cases, but also in Endangered Child cases and Families With Service Needs cases as well. A unified intake services unit can provide more coordinated and effective services to children and their families.

This standard also recognizes that competent, well-trained intake personnel will employ many of the same skills in initially screening applications for petitions to the court that are subsequently needed to assist the court in the predisposition study and preparation of the dispositional report. Therefore, the State agency's intake unit should be vested with responsibility for performing this function as well (see Standard 21.3). In addition, the same intake services capability should also be employed as the intake apparatus for children or families for whom the agency has responsibilities for carrying out the family court's dispositional orders.

References

1. California Department of the Youth Authority. *Management Audit of Orange County Probation Department.* Sacramento: State of California Documents Section, 1976.

2. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to The Juvenile Probation Function: Intake and Predisposition Investigation Services.* New York: Institute for Judicial Administration (Josephine Gittler, Reporter; draft 1976).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 21.1:

19.2 Creation of a State Agency for Juvenile Intake and Corrections
19.5 Specific Responsibilities

Standard 21.2

Processing Applications for Petitions to the Family Court

The State agency's intake services unit should process all applications for petitions to the family court alleging that a juvenile is delinquent:

1. Within 48 hours if the juvenile is in detention or shelter care; or,

2. Within 30 calendar days if the juvenile is not in detention or shelter care.

Intake personnel should have the authority and responsibility to:

1. Refer the case to the family court prosecutor for court action;

2. Refer the juvenile and/or the juvenile's family for noncourt services;

3. Defer the decision on filing a petition for up to 90 days after the receipt of the application where a juvenile, not in detention or shelter care, has been referred by the intake unit to a noncourt service program; or,

4. Dismiss an application that is not substantiated by the available facts.

Commentary

Applications for petitions to the family court may involve law violations as minor as curfew violations or as serious as murder. Moreover, of two juveniles for whom applications are presented in connection with burglaries, one may be a first-time law violator with cooperative parents who are capable of providing sound discipline and improved supervision, and the other may have a history of serious delinquency and parents who have threatened to lock him out of the home. In these cases, differential dispositions of the applications are not only lawful and feasible, but entirely appropriate and required both by common sense and by good social practice. The child charged with a curfew violation may need an admonishment and nothing more. Depending on the circumstances, the first-time burglar might profit most from referral to a noncourt service program without going through the formality of a court hearing. The repetitive burglar and the murderer almost surely will need a court hearing to determine the validity of the charges; and one or both may require a period of institutionalization if the charges are found to be true.

In processing applications for petition to the family court, the intake staff conducts a preliminary investigation to determine whether family court intervention is necessary, or whether it would be more appropriate to divert the juvenile from formal proceedings. The intake unit must also determine whether detention or shelter care is required pending a court hearing.

This standard first of all establishes clear-cut time frames for a dispositional decision by the intake services staff. It specifies that all applications for petitions alleging that a juvenile is delinquent must be processed within 48 hours if the juvenile is in detention or shelter care. In delinquency cases not involving detention or shelter care, a decision should be made as soon as practicable. Unless the juvenile is referred for noncourt services, the standard indicates that such a decision should be required within 30 calendar days. The purpose of these time restrictions is to expedite the decisionmaking process and to reduce the period of detention by limiting the amount of time a juvenile can be detained pending the intake dispositional decision and by giving priority to custody cases in preference to noncustody matters.

At present, many State statutes do not place time constraints on initial detentions or intake dispositional decisions. In fact,

> the vast majority of states' statutes do not specify, as they do for adults, the availability of bail and other release procedures, the necessity of full judicial hearings on detention decision, or time controls on the duration of juvenile detention. These data leave little mystery as to why a far higher proportion of juveniles are detained more than adults charged with the same behavior. [M. Levine & R. Sarri, *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the U.S.* (1974.)]

As a result, many juveniles and their families are subjected not only to the traumas of detention, but also to long periods of uncertainty that produce anxiety and insecurity. The processing times established by this standard should help to minimize these difficulties.

The standard also outlines the appropriate authority and responsibility for the intake staff in processing applications. Intake personnel should have a sound knowledge of juvenile law so that they can make competent judgments as to whether the case falls within the family court's jurisdiction. They also should have a thorough background in the behavioral sciences to identify juveniles with possible mental, emotional, or behavioral disorders as well as an extensive knowledge of the available community resources to make appropriate referrals of juveniles and/or their families.

Nationwide there is a growing use of noncourt services for minor law violations and even for some first offenders involved in serious delinquent acts. Thus, it is important that statutes give the intake unit specific authority to utilize social services programs outside the jurisdiction of the court. Moreover, intake personnel should have responsibility for following up on these cases to insure that services are delivered and needs are met. And they should also be empowered to defer the decision on filing a petition for up to 90 days in noncustody cases, in order to verify that problems of the child or family have been solved through utilization of noncourt service programs.

In cases where the intake unit's investigation indicates that the available facts support the application and that formal proceedings are appropriate, intake personnel staff should refer the case to the family court prosecutor for court action. The family court prosecutor should then have responsibility to review these cases for legal sufficiency and make a final determination as to whether a petition should be filed with the family court (see Standard 15.13).

In some instances the intake staff's investigation will indicate that the available facts do not support the application. In these situations intake personnel should be empowered to dismiss the application. In order to protect the rights of the complainant, however, this decision should be appealable to the family court prosecutor, whose judgment on filing the petition should be final.

References

1. California Welfare and Institutions Code, Section 631.
2. Finkelstein, M. Marvin. *Monograph—Prosecution in the Juvenile Court.* Washington, D.C.: Government Printing Office, 1973.
3. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders Between Arrest and Final Disposition.* New York: Institute for Judicial Administration (D. Freed, T. Terrell & J. Schultz, Reporters; draft 1975).
4. Sarri, Rosemary and Levin, Mark. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* Ann Arbor: University of Michigan National Assessment of Juvenile Corrections, 1974.
5. Sheridan, William. *Legislative Guides for Drafting Family and Juvenile Court Acts.* Washington, D.C.: Government Printing Office, 1969. (Children's Bureau Publication No. 472.)

Related Standards

The following standards may be applicable in implementing Standard 21.2:

12.7 Criteria for Preadjudicatory Detention of Juveniles in Delinquency Cases
15.13 Responsibilities of Family Court Prosecutor at Intake Stage of Family Court Proceedings
21.1 State Agency Responsibility for Intake Services
22.4 Preadjudicatory Detention Review

Standard 21.3

Dispositional Report

The dispositional report should be prepared by the State agency's intake personnel. This report should comply with the guidelines set forth for such reports in Standard 14.5. The recommendations contained in the report should be consistent with the criteria and limitations on dispositional decisions described in the standards in Chapter 14.

Commentary

The dispositional report, sometimes referred to as a social study, is an extremely important part of the family court procedures. On the basis of this report and other facts presented at the hearing, the court will make an appropriate disposition and determine what limitations are to be placed on the child and/or the parents. Intake personnel should be assigned the responsibility of assisting the family court by conducting the necessary predisposition investigation and preparing the dispositional report.

The intake screening and predisposition function are compatible with each other. The intake investigation covers much of the same ground as the predisposition investigation and by combining the two, needless duplication of efforts can be avoided. Moreover, intake screening and predisposition investigations require many of the same skills (e.g., investigative ability, competency in report writing, knowledge of court procedures, and interviewing capability). Many probation departments across the Nation with sizable workloads have organized by function—such as intake, investigation, court, supervision, and special programs. The experience gained from these efficient and effective departments has indicated that a single organizational entity should be responsible for both the intake and predispositional study processes. By requiring intake personnel, who have already made a cursory examination of the case, to prepare the disposition report, at least one duplicative step can be eliminated. This approach will also facilitate a better coordination of services to the family court.

References

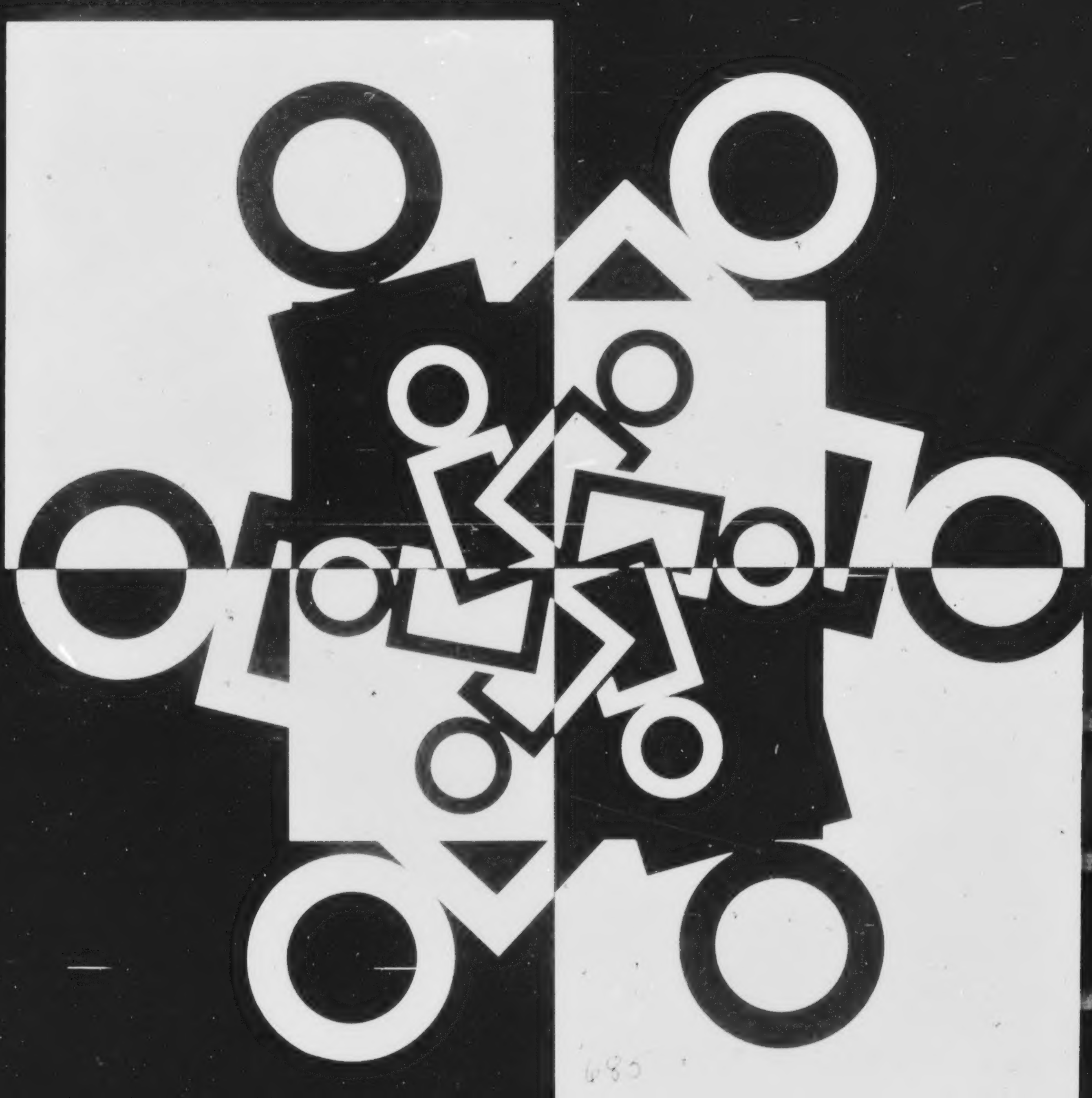
1. California Department of the Youth Authority. *Standards for the Performance of Probation Duties.* Sacramento: State of California Documents Section, 1970.

2. Sheridan, William H. *Standards for Juvenile and Family Courts.* Washington, D.C.: Government Printing Office, 1966.

Related Standard

The following standard may be applicable in implementing Standard 21.3:
14.5 Dispositional Information

Chapter 22
Detention and Shelter Care for Alleged Delinquent Juveniles



INTRODUCTION

Detention and shelter care refer to the temporary out-of-home placement of juveniles prior to the adjudicatory hearing. Juveniles in detention are placed in physically restrictive facilities, while those in shelter care are placed in unrestrictive facilities, such as foster homes or group boarding homes.

A number of recent studies have highlighted the shortcomings and inadequacies of existing detention and shelter care programs in many States. All too often facilities are overcrowded and understaffed. In addition, they frequently fail to insure provision of necessary health services and lack adequate programming to provide normal growth and development. Moreover, a number of recent judicial decisions have found that current State standards for detention and shelter care facilities generally are vague and therefore nearly unenforceable.

The standards in this chapter attempt to provide general guidelines for the development, monitoring, and use of effective detention and shelter care programs for alleged delinquents. They begin by recommending that the State juvenile intake and corrections agency be responsible for the development of a statewide network of approved detention and shelter care facilities (see Standard 22.1). The effective use of limited resources and the desire to provide consistent services to juveniles should underline the operation of such a system operated by a State government. Although the standards encourage purchase of services and placements where appropriate, this approach does not ignore the State's role in planning, developing, and operating the programs necessary to meet the needs of alleged delinquents. Where services are purchased, the standards stress the need for the State juvenile intake and corrections agency to insure that such programs meet all standards set for such services.

The standards outline the State agency's responsibilities in developing and promulgating standards for detention and shelter care facilities (see Standard 22.2). All facilities of this nature, those operated by the State agency and those that provide services pursuant to contracts with the agency, should operate in accordance with the agency's standards. Compliance with such standards is necessary to insure quality and consistency in the facilities themselves and in the services they provide. The State agency should inspect each detention and shelter care facility annually. It also should require monthly written reports from these facilities containing such information as the agency may need to set and enforce its standards.

Consistent with the recommendations and standards set by a number of prior commentators and standards-setting groups, these standards specify that jails should not be used for the detention of juveniles (see Standard 22.3). Despite considerable evidence of the harmful effects of detaining juveniles in jails, this practice continues unabated in many States. If juvenile detention practices are to be improved, it is essential that the use of jails for this purpose be discontinued and that adequate resources be provided to support other, more suitable detention facilities.

It is also important that detention be employed only in those cases where it is truly necessary for the public safety or the welfare of the juvenile. Even in the best circumstances, detention can generate substantial psychological or emotional trauma for the allegedly delinquent youth. If the issuance of a citation or release to a parent or guardian will suffice, the juvenile should not be placed in a detention facility. Intake personnel, therefore, should conduct an investigation and review of the need for preadjudicatory detention within 48 hours of the juvenile's placement in custody (see Standard 22.4). Five specific criteria are set forth to determine the need for preadjudicatory detention. If the case does not satisfy at least one of these criteria, detention should not be authorized.

References

1. Darling, Jerry; Underwood, William and York, Phil. *Issues Relating to the Detention of Juveniles*

in Juvenile Halls and Jails. Sacramento: California Department of Youth Authority, 1974.

2. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

3. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

4. Sarri, Rosemary. *Under Lock and Key: Juveniles in Jails and Detention*. Ann Arbor: University of Michigan National Assessment of Juvenile Corrections, 1974.

5. Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate. *Hearings on the Detention and Jailing of Juveniles*. Washington, D.C.: Government Printing Office, 1974.

Standard 22.1

Development of a Statewide System of Detention and Shelter Care

The State juvenile intake and corrections agency should be responsible for the development of a statewide system of detention care facilities and approved shelter care facilities for juveniles referred to or under the jurisdiction of the family court or who are in the legal custody of the State agency or under community supervision.

The State agency should be authorized to purchase detention and shelter care services from other public agencies or from private organizations, provided that the agency's standards are met in the provision of such services.

Where it determines that adequate shelter care cannot otherwise be provided, the State agency should construct shelter care facilities and operate these facilities in accordance with its promulgated standards.

Commentary

Confinement of juveniles in temporary detention facilities has been described as the Achilles heel of the juvenile justice system. Perhaps nowhere else in the system is there greater disparity between what is needed and what is provided. It is difficult to describe a typical detention home in America, because they run the gamut from concrete-and-bars juvenile jails, housing 500 or more youths, to wood frame houses that accommodate 4 or 5 children. The confined population is equally diverse. Seventeen-year-old heroin addicts with long histories of associations with organized crime frequently share the same facilities with frightened, frail, and often emotionally disturbed 10- and 11-year-olds whose worst offense was running away from drunken and brutal parents. The physical structures, staff ratios, and program operations of many shelter care facilities are similarly inadequate.

Although this standard recommends that the State juvenile intake and corrections agency have responsibility for developing a statewide network of adequate detention and shelter care facilities, it recognizes that the problems that plague detention and shelter programs will not be eliminated completely by centralizing responsibility for these operations at the State level. Many of these facilities are already State-operated. Where this is true, the only hope for real improvement lies in a substantial increase in resource allocations.

In other States, existing problems often are exacerbated because the detention and shelter care facilities are operated by local jurisdictions. Vesting a single State agency with responsibility for these programs has a number of advantages. Because the population served by locally controlled facilities is frequently very small, specialized services are so costly that often little more than minimal custodial care is provided. City and county governments generally are less able to fund the relatively expensive care required to maintain a first-class detention home. Uniform statewide standards are likely to decrease variances in the quality of care provided from one jurisdiction to another. The likelihood of adequate personnel, salaries, and training usually increases when there is State operation, though this is not always the case. And, finally, centralized authority provides greater opportunities for transferring cases from one home to another to utilize specialized services or to achieve segregation of the very dangerous or the very weak.

It is not necessary for the State agency to operate each detention home or shelter care facility. Many can be operated by private or public agencies under contract. When services are purchased, however, it is especially important that responsibility for the level of service remain with the State agency. The agency should promulgate comprehensive standards for the construction of detention and shelter care facilities and the operation of their service programs. It also should inspect each facility and monitor its programs to insure compliance with the standards (see Standard 22.2). This is essential to securing the advantages of centralized administration outlined above.

In addition, where the agency determines that adequate shelter care cannot otherwise be provided, it should be authorized to construct new facilities. These, too, should be operated in accordance with its promulgated standards.

References

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to the Release, Control, and Detention of Accused Juvenile Offenders between Arrest and Final Disposition*. New York: Institute for Judicial Administration (D. Freed, T. Terrell & J. Schultz, Reporters; draft 1975).

2. Sheridan, William. *Legislative Guide for Drafting Family and Juvenile Court Acts*. Washington, D.C.: Government Printing Office, 1969 (Children's Bureau Publication No. 472).

3. Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate. *Hearings on the Detention and Jailing of Juveniles*. Washington, D.C.: Government Printing Office, 1974.

Related Standards

The following standards may be applicable in implementing Standard 22.1:

22.2 State Standards for Detention and Shelter Care Facilities

22.3 Use of Jails Prohibited

Standard 22.2

State Standards for Detention and Shelter Care Facilities

The State juvenile intake and corrections agency should develop and promulgate standards for detention and shelter care facilities. These standards should govern such matters as the capacity of the facility, its location, design, construction, equipment and operation, fire and safety precautions, medical services, qualifications and number of personnel, and the quality of services provided to the juveniles.

The use of any detention or shelter care facility not operated by the State agency should be subject to the agency's approval. The agency should notify the appropriate public officials whether:

1. The facility meets its standards and is suitable for the detention or shelter care of juveniles;

2. The facility is in substantial compliance with the standards and their general purpose and intent, with deficiencies noted; or,

3. The facility is disapproved and will be declared unsuitable for the detention or shelter care of juveniles 60 days thereafter, with the reasons noted. Provision should be made for opportunity to correct the deficiencies and approve the facility upon reinspection.

The State agency should conduct an annual inspection of each detention and shelter care facility. It also should require monthly written reports from these facilities, containing such information as the State agency may need to set and enforce its standards.

Commentary

The State agency should promulgate and enforce clearly defined standards governing program operations and environmental conditions for services to children and youths. Standards for juvenile detention and shelter care facilities should be no different than for other public and private child care programs. Medical facilities, child care institutions, schools, and other facilities that serve youths all are subject to certain standards. Unfortunately, little attention has been given to establishment and enforcement of minimum standards for the care of juveniles who are placed in detention or shelter care facilities. During recent years, the courts have taken an interest in the operations and environmental conditions of these facilities and have attempted to remedy situations where there has been serious deprivation of basic rights and needs. But in their attempt to evaluate existing conditions in these facilities as compared with other, noncorrectional facilities, the courts frequently have found that there were only very vague, limited standards to which the field of corrections could be held accountable.

This standard mandates the State agency to establish and enforce standards for all detention and shelter care facilities. The agency should insure that its facilities comply with its promulgated standards, and, where the agency contracts others to provide detention or shelter care services, it should require and enforce their compliance with its standards as well.

The standard further recommends that any facility utilized for the detention or shelter care of juveniles and not operated by the State also should be subject to agency approval. The agency should notify the responsible officials as to whether the facility meets its standards, is in substantial compliance, or is disapproved because the facility is not in compliance with the agency's standards and poses an immediate threat to the health and safety of the juvenile clients. The agency should allow 60 days for correction of deficiencies, and provide an opportunity for verification of compliance and approval of the facility on reinspection.

To facilitate fulfillment of its responsibilities for setting and enforcing standards, the State agency should conduct an annual inspection of each detention and shelter care facility, as well as require monthly written reports that contain any information the agency may require, such as monthly population figures.

It also is proposed that the State agency establish a system of financial assistance to local jurisdictions, so that the State can share the cost of detention and shelter care when the State does not operate these services itself.

The State agency's standards relating to staffing ratios, facility size and maximum capacity for detention facilities should be consistent with those set forth in this volume for secure residential facilities (see Standard 24.2). Likewise, the agency's standards for shelter care facilities should conform with those for nonsecure residential facilities (see Standard 24.4).

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1. California Department of the Youth Authority. *Standards for Juvenile Halls.* Sacramento: State of California Documents Section, 1973.

2. Darling, Jerry; Underwood, William and York, Phil. *Issues Relating to the Detention of Juveniles in Juvenile Halls and Jails.* Sacramento: California Department of the Youth Authority, 1974.

3. National Council on Crime and Delinquency. *Standards and Guides for the Detention of Children and Youth.* New York: National Council on Crime and Delinquency, 2d ed. 1961.

4. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 22.2:

22.1 Development of a Statewide System of Detention and Shelter Care
22.3 Use of Jails Prohibited
24.2 Secure Residential Facilities
24.4 Nonsecure Residential Facilities

Standard 22.3

Use of Jails Prohibited

Jails should not be used for the detention of juveniles.

Commentary

This standard emphasizes that jails should not be used for the detention of juveniles under any circumstances. Prominent commentators and past standards-setting groups have for many years condemned the use of jails for the detention of juveniles, and despite the prohibitory standards set by prior groups, the practice continues. Thousands of children are placed annually in jails or other lockups used to house adults accused or convicted of crimes. At present, all but five States continue to permit the jailing of juveniles under some circumstances.

One of the most thorough and well-documented assessments of the myriad harms that result from the jailing of juveniles is found in the work of Dr. Rosemary Sarri and her associates at the University of Michigan's National Assessment of Juvenile Corrections. After reviewing the testimony of Dr. Sarri and other experts in juvenile justice, the Senate Subcommittee to Investigate Juvenile Delinquency observed that,

> Regardless of the reasons that might be brought forth to justify jailing juveniles, the practice is destructive for the child who is incarcerated and dangerous for the community that permits youth to be handled in harmful ways.
>
> Despite frequent and tragic stories of suicide, rape and abuses, the placement of juveniles in jails has not abated in recent years. A significant change in spite of these circumstances has not occurred in the vast majority of states. An accurate estimate of the extent of juvenile jailing in the United States does not exist. There is, however, ample evidence to show that the volume of juveniles detained has increased in recent years. The National Council on Crime and Delinquency in 1965 reported an estimate of 87,591 juveniles jailed in that year. Sarri found some knowledgeable persons estimate this has increased to a today's high of 300,000 minors in one year. Approximately 66 percent of those juveniles detained in jail were awaiting trial. The lack of any alternatives has been most frequently cited as a reason for detaining more and more youngsters in adult jails. [Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate *Hearings on the Detention and Jailing of Juveniles* (1973).]

The recommendation that the use of jails for the detention of juveniles be prohibited is consistent with the past recommendations of the National Council on Crime and Delinquency, the Institute for Judicial Administration/American Bar Association Juvenile Justice Standards Project, and other experts in juvenile corrections. It must, of course, be recognized that the provision of adequate alternative facilities generally will require the allocation of additional resources. But it is believed that the social costs of continuing present practices are simply too great to bear.

References

1. Institute for Judicial Administration/American Bar Association, Juvenile Justice Standards Project. *Standards Relating to Interim Status: The Release, Control, and Detention of Accused Juvenile Offenders between Arrest and Final Disposition.* New York: Institute for Judicial Administration (D. Freed, T. Terrell & J. Schultz, Reporters; draft 1975).

2. National Criminal Justice Information and Statistics Services, Law Enforcement Assistance Administration. *Children in Custody, A Report on the Juvenile Detention and Correctional Facility Census of 1971.* Washington, D.C.: Government Printing Office, 1974.

3. Sarri, Rosemary. *Under Lock and Key, Juveniles in Jails and Detention.* Ann Arbor: University of Michigan National Assessment of Juvenile Corrections, 1974.

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5. Subcommittee to Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate. *Hearings on the Detention and Jailing of Juveniles.* Washington, D.C.: Government Printing Office, 1973.

6. U.S. Department of Health, Education and Welfare. *Institutions Serving Delinquent Children—Guides and Goals.* Washington, D.C.: Government Printing Office, 1962.

7. York, Phil. *Standards for Detention of Minors Confined in Jail.* Sacramento: California Department of the Youth Authority, Division of Standards and Local Assistance, Prevention and Community Corrections Branch (draft 1975).

Related Standards

The following standards may be applicable in implementing Standard 22.3:

22.1 Development of a Statewide System of Detention and Shelter Care

22.2 State Standards for Detention and Shelter Care Facilities

Standard 22.4

Preadjudicatory Detention Review

An investigation and review of the need for preadjudicatory detention should be completed by intake personnel within 48 hours of a juvenile's being placed in custody.

Whenever a juvenile is taken into custody, the juvenile should be released with a citation or to a parent or guardian, unless detention is necessary:

1. To insure the presence of the juvenile at subsequent family court proceedings;

2. To provide physical care for a juvenile who cannot return home because there is no parent or other suitable person able and willing to supervise and care for the juvenile adequately;

3. To prevent the juvenile from harming or intimidating any witness, or otherwise threatening the orderly process of the family court proceedings;

4. To prevent the juvenile from inflicting bodily harm on others; or

5. To protect the juvenile from bodily harm.

Commentary

The purpose of this standard is to reduce sharply both the number of juveniles who are detained pending a court hearing and the duration of their confinement. The standard requires that the juvenile be released with a citation or to a parent or guardian, unless preadjudicatory detention is necessary because of one of the five reasons enumerated. It further specifies that intake personnel should be required to complete an investigation and review of the need for detention within 48 hours of a juvenile's being placed in custody. A careful review of each detention decision, using specific criteria for determining whether to release or detain, is an important element in the effort to minimize juveniles' penetration into the juvenile justice system (see also Standards 12.1, 12.7, and 12.11).

In recent years, national and State juvenile corrections experts, social agencies, and the legal profession have expressed concern regarding juvenile detention practice. They have offered evidence that indicates that many juveniles currently are detained who should not be, that juveniles are detained for long periods of time while they await disposition of their cases, that detention is too expensive in terms of the services that must be provided, and that detention has harmful effects on the juveniles. It seems clear that large numbers of juveniles currently are detained when adults in similar circumstances would be cited, released on their own recognizance, or released on bail.

On the other hand, there is no question that some juveniles present a threat to other persons or need protective shelter care. Thus,

> [j]uvenile detention policies must reflect a delicate balance between the need to avoid any unnecessary pre-trial restraint of juveniles—in recognition both of the harm suffered by children confined in detention facilities, and of the duty to honor every child's right to liberty and the presumption of innocence—and the need to protect society and/or some children against the harms which potentially flow from unsupervised freedom. [M. Finkelstein, *Monograph—Prosecution in the Juvenile Court* (1973).]

This standard attempts to achieve that balance by establishing a clear-cut time frame and outlining specific criteria for detention. Whenever a juvenile is placed in custody, the intake unit should begin its investigation immediately to determine the need for continued custody. Immediately means within the hour and not the next judicial day. The standard requires that the juvenile be released within 48 hours unless a petition is filed. The 48-hour limit is less restrictive than that proposed by the IJA/ABA Juvenile Justice Standards Project, which opts for a 24-hour requirement. The 48-hour time frame is, however, consistent with most statutes pertaining to the handling of complaints on behalf of juveniles or the prosecution of adult cases.

It is recommended that the State agency develop constructive alternatives to the use of jails and juvenile halls, while continuing to provide for the detention of juveniles when it is necessary for the public safety or the welfare of the juvenile. Detention should be permitted only when such action satisfies one of the five criteria specified.

1. **To insure the presence of the juvenile at subsequent family court proceedings.** This would include cases where there is a substantial threat that the juvenile will flee the jurisdiction. Since few juveniles are legally independent, emancipated persons, the juvenile's response to parental supervision and control should be weighed in assessing this factor.

2. **Juvenile who cannot return home.** This would include cases where the parents refuse to allow the juvenile to return home and cases where the juvenile refuses to return home or to live temporarily with a responsible relative.

3. **To prevent the juvenile from harming or intimidating any witness or otherwise threatening the orderly process of the family court proceedings.** This includes cases where there is strong indication that the juvenile will threaten or physically hurt the victim, witnesses, or informer to. Incapacitation would be necessary both to protect others and to keep the juvenile from becoming further involved in serious misconduct.

4. **To prevent the juvenile from inflicting bodily harm on others.** A possibility of bodily harm to someone is present, at least theoretically, in many situations. This theoretical possibility is not an adequate justification for detention. The nature and degree of the risk must be specific to the individual situation at the particular time. The possibility of harm at some indefinite future time is not sufficient justification for detention.

5. **To protect the juvenile from bodily harm.** The nature of an offense may be such that it results in a reaction from the community or victim that makes retaliation seem imminent. In such situations, the minor should be maintained in protective custody. In other cases, the juvenile's reaction to his or her situation may become so self-destructive that his or her safety and health require the constant supervision and mental health services that can be provided only by a detention or shelter care facility.

Finally, it should be emphasized again that when detention is employed, intake personnel should make maximum possible use of unsecure facilities (see Standard 12.7). For example, a child who cannot return home because no parent or other suitable person is able and willing to supervise and care for him or her should not be placed in a detention home. Rather, such a child should be taken to a foster home, group home, or shelter care facility. Concerted efforts also should be made to use nonsecure facilities wherever possible for cases falling into the other categories outlined above.

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6. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

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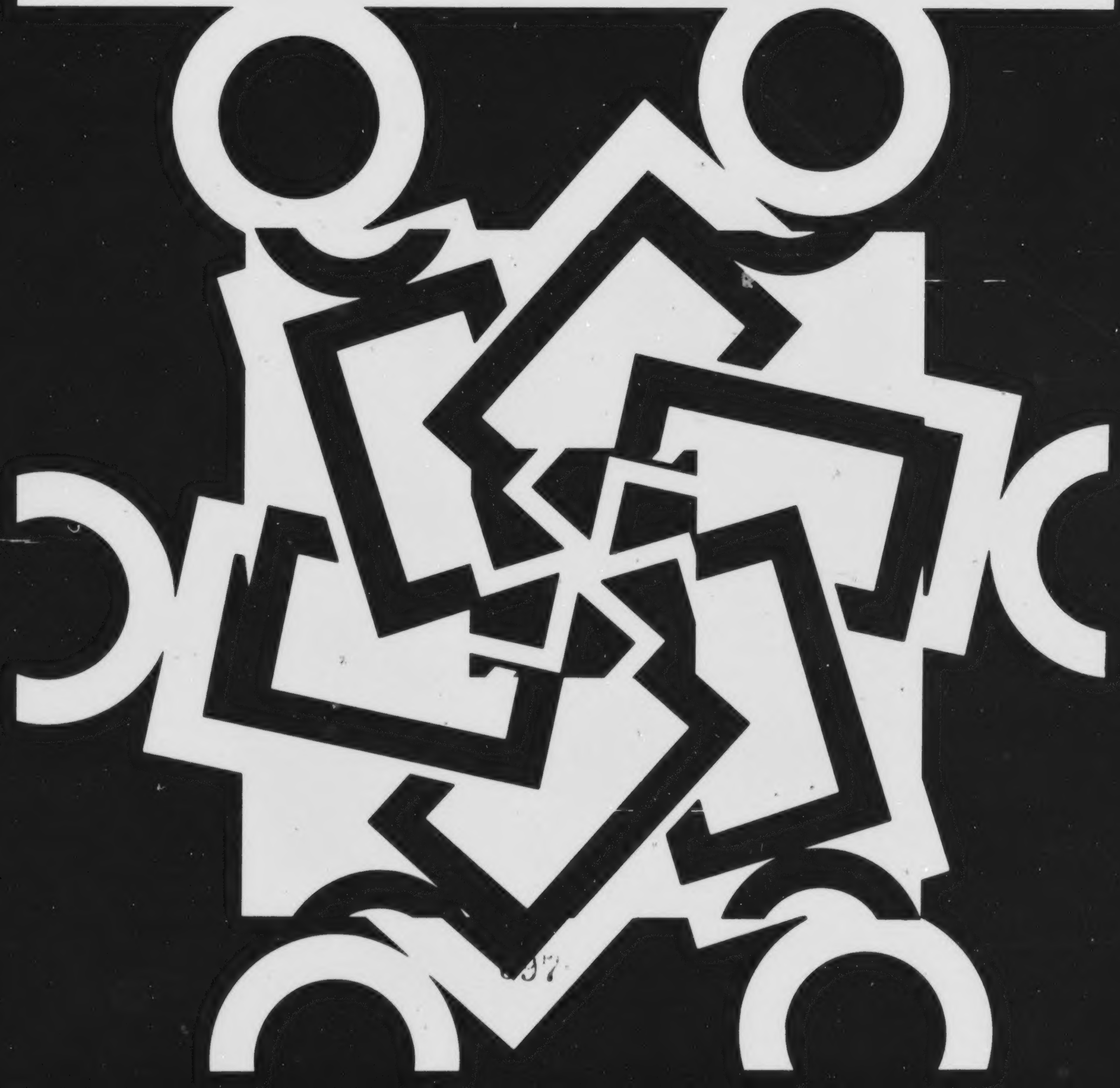
Related Standards

The following standards may be applicable in implementing Standard 22.4:

12.1 Case Processing Time Frames
12.7 Criteria for Preadjudicatory Detention of Juveniles in Delinquency Cases
12.11 Detention Hearings
22.1 Development of a Statewide System of Detention and Shelter Care
22.3 Use of Jails Prohibited

Chapter 23
Community Supervision



INTRODUCTION

Following adjudication, the family court often will order that juveniles remain in their homes but be subject to correctional supervision and required to participate in service programs. This approach avoids the sometimes unfortunate effects of institutionalization and is consistent with the philosophy of employing the least coercive dispositional alternative appropriate to a particular case. This is the most frequent category of disposition used by courts handling juvenile matters.

Supervision and services are also frequently required for juveniles following their release from residential facilities. The execution of the court's dispositional orders that call for supervision and field services and the provision of aftercare have traditionally been the responsibility of probation and parole officers. In this volume these programs are examined under the rubric of community supervision.

The standards in this chapter set forth guidelines for the effective organization and delivery of community supervision services. They begin by stipulating that the State's juvenile intake and corrections agency should develop a statewide network of these services. They recommend that service delivery be decentralized, with community supervision workers located as close to the community and the family court as feasible (see Standard 23.1). The standards indicate that the primary responsibility of the community supervision division should be to implement the conditional dispositions of the family court. And they emphasize that these dispositions should not interfere with the juvenile's schooling, regular employment, or other activities necessary for normal growth and development (see Standard 23.2).

Another standard outlines procedures for the important process of formulating a services plan for each juvenile ordered to community supervision. Proper planning is essential. The standards indicate that the adjudicated juvenile should be given full opportunity to participate in formulating the plan. And they recommend that the juvenile and significant others in the juvenile's life should participate in case staffings whenever possible (see Standard 23.3).

The services plan is designed to implement the dispositional order of the family court. But in some cases specific services ordered by the court may be unavailable. In these situations, the standards direct the community supervision staff to return the case to the family court for further dispositional consideration (see Standard 23.4). Excessive caseloads for community supervision workers also can thwart the effective delivery of services. Thus, the standards indicate that the State agency should establish a maximum caseload ratio (see Standard 23.5).

The standards also outline the general authority of community supervision workers and indicate appropriate courses of action for cases involving noncompliance with court orders and new law violations. They emphasize that the worker's authority is derived from the family court and stipulate that community supervision workers should not modify or escalate conditions of the dispositional order without the court's approval. As officers of the court these workers should have peace officer powers, including the powers of arrest, search, and seizure of contraband. But these peace officer powers should not extend to the carrying of firearms (see Standard 23.6).

In cases involving the juvenile's noncompliance with the court's dispositional order, the standards indicate that the community supervision worker should petition the family court. This is consistent with the principle that only the court should modify the initial disposition. The standards also specify that the grounds for the petition requesting that the juvenile be taken into custody prior to a hearing on the alleged noncompliance should be limited. Such custody should be requested only when there are reasonable grounds to believe that the juvenile poses an imminent threat of physical harm to him or herself or another or that the juvenile is in danger of physical harm from another and requests protection (see Standard 23.7).

As to new law violations by the delinquent, the standards take the view that community supervision workers should refer these cases to the intake unit for full investigation. It should then be the responsibility of intake personnel either to petition the court for modification of the disposition or to refer the case to the family court prosecutor for adjudication (see Standard 23.8).

Regarding the education and training of community supervision workers, the standards recommend, as a minimum, that each worker have a bachelor's degree in one of the helping sciences: psychology, social work, counseling, or civil justice. The standards further specify that workers should receive 40 hours of initial and 80 hours of ongoing training each year in the subject areas in which they will be required to provide services (see Standard 23.9).

Finally, the standards address the complications that may arise if a juvenile is under the jurisdiction of more than one court and outline the appropriate procedures for handling these cases (see Standard 23.10).

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1. American Bar Association. *Standards Relating to Probation*. New York: American Bar Association, 1970.
2. Killinger, George and Cromwell, Paul F., Jr. *Corrections in the Community: Alternatives to Imprisonment*. St. Paul: West Publishing Company, 1974.
3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.
4. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.
5. *Probation and Parole*. New York: John Wiley and Sons, Inc. (Robert Carter and Leslie Wilkins eds. 1970).

Standard 23.1

Organization

The State agency should have responsibility for developing a statewide network of community supervision that will provide implementation of the family court's dispositional order, supervision, counseling, and other services for juvenile delinquents. These services should be made available on a decentralized basis by workers located as close to the community and the family court as feasible.

Commentary

The implementation of the family court's conditional disposition lies at the heart of community supervision. Supervision implies there will be surveillance and monitoring of the juvenile's behavior, plus some practical help in finding a job, arranging for specially tailored school programs, providing for inhome or out-of-home care, assistance in promoting wholesome leisure time activities, and a host of other details. If juveniles are to make a successful community adjustment, they will need assistance and good supervision. This is what probation and parole are all about.

This standard envisions a statewide organization that delivers services on a decentralized basis. Placing the planning, policy development, fiscal management, standard setting, monitoring, and evaluation of services at the State level:

1. Facilitates comprehensive planning;
2. Insures more uniform standards and practices;
3. Insures a comparable level of service to all areas and all clients, including the provision of services to widely divergent types of communities: urban, medium-size cities, suburbs, and rural areas;
4. Insures better distribution of services to sparsely populated areas;
5. Permits flexibility in allocating staff and resources to changing service needs;
6. Better enables the recruitment of qualified staff, more equitable pay, and personnel benefits; and
7. Provides for higher quality and more uniform staff training and development.

Often resource availability varies from community to community. The provision of direct services by community workers permits the decentralized units to be responsive to local area clients. To meet the needs of the juveniles and their families, each decentralized community supervision unit should have the flexibility to provide or to contract for the necessary services.

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3. Ohmart, Howard. *Administrative Principles and Program Structures of an Independent State Youth Correctional System.* Sacramento, California Department of the Youth Authority, May 1965.

Related Standards

The following standards may be applicable in implementing Standard 23.1

19.1 Purposes of Juvenile Corrections
19.3 Provision of Services
23.2 Nature of Services

Standard 23.2

Nature of Services

The primary responsibility of the community supervision division of the State agency should be the implementation of the conditional dispositions of the family court. Such dispositions should not interfere with the juvenile's schooling, regular employment, or other activities necessary for normal growth and development.

Commentary

The community supervision division of the agency should have responsibility for providing intake services, preparing diagnostic and predispositional reports, and implementing the family court's dispositional orders. These orders may require the enforcement of specific conditions, the provision of certain direct services, or the purchase of needed services. The nature of these services should be established by the court according to the principles set out in Standard 14.9 on Dispositions Available to the Court for Juveniles Adjudicated Delinquent.

The following dispositional categories should be available to the family court; the community supervision division should be responsible for implementation.

1. **Nominal Disposition.** These are cases where the juveniles are reprimanded, warned, or otherwise reproved and unconditionally released. For many juveniles, particularly those who have committed their first offense, court processing itself is a sufficient sanction. This, coupled with a stern warning or reprimand, is a satisfactory disposition. As there is no further action taken by the court, cases in this category would not come under the jurisdiction of the community supervision division.

2. **Conditional Disposition.** For many juveniles, conditional sanctions are needed to deter future misduct. These dispositional orders should be carried out by the community supervision division and include financial sanctions, sanctions involving community services, community supervision, remedial services, supervision of out-of-home placements, or a suspended disposition.

a. **Financial.** These sanctions should include both restitution and fines. Community supervision staff should have the responsibility to enforce these sanctions as required.

Restitution is appropriate when the juvenile has profited financially by the delinquent act and the victim can be compensated. Such an action can often serve to lessen alienation between the juvenile and victim as well as between the juvenile and society, since it forces the juvenile to realize he has harmed an individual who needs to be compensated. This standard also recognizes the value of restitution in kind where, for example, a juvenile repairs damage caused by his vandalism. In some cases a partial or symbolic restitution may suffice or the juvenile may be able to engage in some work that would benefit the victim. Restitution may be the sole sanction or it may be ordered in conjunction with another one.

Fines may be used for the same reasons and under the same conditions as restitution, except that the element of victim compensation is missing. Tailoring the method of payment to the means of the individual can help to alleviate injustice. This can be done by devising flexible collection plans. As with restitution, a fine may be the sole sanction or it may be ordered in conjunction with another.

b. **Community Service.** These dispositions serve much the same social purpose as restitution. Work assignments are for the general welfare of the community and give the offender the opportunity to make physical as well as moral restitution for his antisocial act. If the community service project is under the general supervision of community supervision staff, this will insure that the experience helps the juvenile to develop greater responsibility for his actions, appreciate the value of work, and learn to work with other people.

Many jurisdictions have usefully placed delinquents with voluntary social service agencies; in return for the work performed, the agency supervises the juvenile and tries to make the experience constructive.

c. **Community Supervision.** Under this sanction —which will be the one most often used—conditions or limitations are imposed upon the youths' activities with the aim of encouraging positive behavior, developing individual responsibility, and reducing crime.

The sanction may take the form of day custody, where a juvenile must remain in a specified place for all or part of every day, regularly reporting to a community supervision office, or a requirement that the juvenile spend certain hours at his home. Such an order requires considerable staff time. Unless there is sufficient supervision, the order is meaningless, and the effect upon the juvenile is to breed contempt for the entire system.

(1) **Remedial Services.** The family court also may order the juvenile to be placed in remedial programs such as individual and group counseling, remedial academic training, vocational training, employment development, substance abuse training, medical/mental health service, recreational resources, and various types of therapy. Although many experts believe that purely voluntary participation in remedial programs is preferable to coercive imposition, these standards allow the court to order a juvenile to participate to insure that he will be exposed to appropriate reeducative learning experiences (see Standard 19.7). It is also believed that if these services are available, the family court will use community supervision conditions as alternatives to custodial sanctions.

The length of time for which a juvenile may be required to participate in any remedial program must be related to the seriousness of the juvenile's delinquent act. Programs that may have a harmful effect may not be imposed under this standard and, in no event, may the time required exceed the maximum permissible for the delinquent act.

(2) **Nonsecure Residence.** The family court may order juveniles to be placed in secure facilities or nonsecure residences. A nonsecure residence is preferred and the courts are encouraged elsewhere in the standards to consider such placements for all but the most serious delinquents. The community supervision division should be responsible for supervising the juveniles ordered to such placements as foster homes, group homes, and halfway houses.

Of the nonsecure residences, foster home placement is preferred because it offers the juvenile a family living experience. The family's services are purchased by the State. The juvenile lives in the home as a temporary family member.

In a group home, several unrelated youths live together for the purpose of offering each juvenile a group living experience, in contrast to the family living experience of a foster home. Group homes frequently run their own programs, and are often geared toward a specific treatment philosophy. In cases of houseparents, single or married, staff often are hired on a basis of three-days-on, and three-days-off.

Small community-based residential facilities for juveniles are also often called halfway houses. These were originally created for prerelease or postrelease juvenile care—as a bridge between custodial confinement in an institution and complete release to the community—but they have proved their utility in providing an alternative to secure confinement.

3. **Suspended Disposition.** The use of a suspended disposition is based upon the juvenile's agreement that he will abide by certain specified conditions without any formal court action or community

supervision. Failure to abide by the conditions could return the case to the family court for imposition of the suspended disposition.

Community supervision and remedial services are provided by the community supervision division through the following approaches:

a. **Enforcement.** The conditions of the disposition order are carried out through surveillance and supervision by community supervision staff.

b. **Direct Service.** Community supervision staff may provide direct services to juveniles including, but not limited to:

- Diagnosis;
- Classification;
- Counseling;
- Employment development;
- Academic program development;
- Substance abuse program development;
- Medical/mental health services; and
- Recreational programs.

c. **Purchase of Services.** Community supervision staff should have sufficient resources to purchase necessary services available in the community. This prevents duplication by the correctional agency of services already existing in the community. In addition it often provides for diversification and a level of services superior to what can be provided by the corrections agency. There is also a basic premise in the purchase of service concept that community supervision will be more effective if it involves remedial action by one or more community agencies. Such agencies can provide services that relate to the causes of the juvenile's problems. In addition, such community agencies as schools, welfare departments, family service agencies, and mental health services can provide services to the juvenile that are more normal and less stigmatizing than those provided by the court.

4. **Custodial Disposition.** Juveniles placed in residential facilities by the family court do not fall within the responsibility of community supervision. These standards adopt a presumption against custodial dispositions, unless the gross seriousness of the delinquent act or public safety requires it, based upon the realization that removal from the home is the most drastic and often the most damaging sanction that can be imposed. These standards are designed to guard against the kind of authoritarian overreach so typical of our juvenile courts over the past several decades.

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Related Standards

The following standards may be applicable in implementing Standard 23.2:

14.9 Dispositions Available to the Court for Juveniles Adjudicated Delinquent
14.11 Conditional Disposition
19.1 Purposes of Juvenile Corrections
23.3 Formulation of Services Plan

Standard 23.3

Formulation of Services Plan

A services plan should be developed for each juvenile ordered to community supervision by the family court. The components of the plan should be derived from all available information including: the diagnostic and dispositional reports, the comprehensive community assessment, the input of significant others in the delinquent's life, and the wishes of the delinquent himself. The plan should be developed by the worker with the assistance of other resources available at the time the case is assigned. Its objectives should be clearly stated and in keeping with the needs outlined in the dispositional order.

The adjudicated juvenile referred for services should be given full opportunity to participate in creating the services plan and have a voice in setting his own goals. He should be present when possible at case staffings and should participate as a member of the staffing team. Significant others, including parents, spouse, or others, also should be included in these staffings whenever possible.

Commentary

Once the court has made the decision to place the juvenile under its jurisdiction in correctional care, the agency should have responsibility immediately to begin to formulate the services plan. This plan should assess the needs of the child and the nature and availability of appropriate programs. It should consider:

1. Any medical problems that require special consideration or ready access to physicians or hospitals including, but not limited to, physical handicaps, mental or emotional disturbances, and alcoholism and drug addiction.
2. The proximity of the program to the youth's guardian, counsel, and significant others.
3. The language spoken by the youth and his cultural background. Counselors and teachers who speak the same language or share the same cultural heritage of the youth should be available.
4. The ability or capacity of the youth to participate in and benefit from programs.
5. The immediate availability of the particular placement or program.

This standard provides for information about the needs, interests, and motivations of the juvenile which, coupled with a realistic services plan, should give the family court flexibility in choosing alternatives to custodial sanctions. It encourages maximum participation by the juvenile, the family, and the attorney in fashioning an appropriate disposition.

The plan developed by the community supervision division should be based upon a realistic appraisal of the recommended service's potential to assist the juvenile, and the State agency should inform the court if it determines that it cannot provide access to all services required by the juvenile.

Whenever the State agency has reasonable grounds to believe that a juvenile is mentally ill or mentally retarded, it should petition the family court for a review of its order and for the initiation of proceedings for the juvenile's civil commitment.

Upon commitment of a juvenile to its custody, the agency should review each juvenile's services plan every 90 days. This review should include an evaluation of the juvenile's progress since the previous review and should determine whether existing plans should be modified or continued. A written summary of the periodic review should be sent to the juvenile's parents or guardians and to the family court.

The agency should maintain a complete record of all studies and examinations of juveniles ordered to its care, and its subsequent review, recommendations, decisions, and orders affecting the juvenile. Such records should be maintained so as to facilitate case planning, administrative decisions, program monitoring, and evaluation.

References

1. American Friends Service Committee. *Struggle for Justice,* 1971.

2. Illinois Department of Children and Family Services. *Unified Delinquency Intervention Services* (Proposal to LEAA, 1974).

3. *In re Patterson,* 210 Kan. 245, 499 2d 1131 (1932).

4. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime.* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 23.3:

19.5 Specific Responsibilities
23.2 Nature of Services
23.4 Level of Services

Standard 23.4

Level of Services

All adjudicated delinquents should receive the level of supervision and services identified in the services plan. Where specific services ordered by the family court are not available, it should be the responsibility of the community supervision staff to return the case to the family court for further dispositional consideration pursuant to Standard 14.19.

Commentary

Recent court decisions have clearly established a juvenile's right to treatment when his liberty has been taken from him on the basis that he is in need of treatment. To the extent that the court limits a juvenile's liberty by imposing conditions and restrictions, it takes on the duty to provide all required services (see *Nelson* v. *Heyne; Morales* v. *Turman*).

The community services division must assure the quantity and quality of service through clear, explicitly written standards, for both its employees and its contractors. Those providing the service are entitled to know what is expected of them and how their performance will be evaluated.

This imposes a significant responsibility upon the community supervision staff charged with carrying out the dispositional orders of the family court. They must make certain that juveniles under their care have access to at least as wide a range of services as are available in the community at large. This would include medical and dental care, education, legal services, vocational training, recreation, religious services, and psychological and psychiatric treatment.

These services need not be provided directly by the agency. In most cases it would be preferable that they be provided through purchase of service contracts with private vendors or private agencies already existing in the community. This will avoid duplication and, in most cases, will provide a higher quality of service for the funds expended. It has the added benefit of promoting community involvement. However, purchasing the service does not absolve the agency of responsibility for the quality and quantity of care. This must be spelled out in the contract, and auditing procedures must be instituted to assure that juveniles receive the services they need.

Whenever juveniles who are adjudicated delinquent are denied services to which they are entitled, the correctional agency charged with supervision is obligated to so inform the family court. Although delinquent youth under community supervision should have access to all services available to nondelinquent youth, this is frequently not the case. Delinquent youth often are subject to discriminatory treatment by noncorrectional agencies and are prevented from participating in service programs available to other youth. When this occurs, the correctional agency should take on an advocacy role, and the family court should be informed.

References

1. Bakal, Yitzhak. "The Massachusetts Experience," *Delinquency Prevention Reports*. April 1973.

2. Fogel, David. *Corrections and Social Work in the Year 2000—Some Directions*. 1973.

3. Foster, Robert. "Youth Service Systems: New Criteria" in *Closing Correctional Institutions*, (Bakal, ed. 1973).

4. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

5. *Nelson* v. *Hayne*, 491 F. 2d 352 (7th Cir. 1974).

Related Standards

The following standards may be applicable in implementing Standard 23.4:

14.19 Provision of Dispositional Services
23.2 Nature of Services
23.3 Formulation of Services Plan

Standard 23.5

Caseload Ratio

The State agency should establish a maximum caseload ratio for community supervision workers.

Commentary

This standard requires the State agency to establish a maximum caseload ratio for budgetary purposes. This should generally provide that community supervision workers not carry more than 25 valid, active cases at any one time. However, to provide administrative flexibility, provision should be made for allocation or assignment of cases on the basis of the juvenile's needs and the community supervision workers' capabilities. As a result, some workers occasionally may have more than 25 juveniles in their caseload, especially when the juveniles require minimum supervision or assistance. Proper caseload management requires some sort of classification system, with a recognition that some delinquents need and can profit more than others from intensive personal counseling. This sometimes requires an inordinate amount of time. Therefore, some workers will have as few as 12 to 15 in their caseloads, and some as many as 30 to 40. How many each worker will handle is a matter for administrative decision.

This figure of 25 cases per worker is based on the results of various studies and experimental projects that have shown fairly conclusively that, with this load, a worker is not able to spend more than 1.5 hours per month in face-to-face contact with the juvenile. This is more than enough for some juveniles but, for the vast majority, it is marginal at best; for a few, it is woefully inadequate. Research on caseload size indicates that mere reduction of caseloads, without any other changes, has little effect on program effectiveness. What is needed is a classification system that recognizes that certain juveniles react more positively than others to certain community supervision approaches. For example, neurotic, highly dependent youngsters whose delinquency stems from efforts to act out their anxieties and frustrations seem to profit greatly from lengthy personal counseling sessions. But these sessions are a waste of time with sociopaths. Again, certain workers are by training or instinct especially skillful in working with neurotic children; others would be better assigned to juveniles who need a job or vocational counseling.

The wise correctional administrator will budget community supervision staff at 25 cases per worker, establish a classification system, and then assign cases to workers on a sliding scale that takes into account the needs of the juveniles and the capabilities of the workers. Budgetary review agencies need to understand that case supervision involves much more than the working with the juvenile. Parents and sometimes siblings must be interviewed, teachers and guidance counselors contacted, and input sought from significant other persons, such as ministers and playground directors. Law enforcement personnel must be interviewed, reports reviewed and verified, correspondence answered, and numerous administrative details completed. Progress reports must be prepared and, if the juvenile gets into further difficulty, investigations conducted and new reports for the court prepared.

Community supervision workers cannot do all this sitting at a desk or using the phone. They must work in the community—visible, available, readily accessible. They must confer with school personnel, employers, mental health workers, vocational rehabilitation counselors, physicians, psychologists, welfare workers, social agency directors and staff, and police officers. Some of these tasks will be neglected if caseloads are too high; if this occurs, the core of the supervision process is gutted; placing a juvenile on probation or parole would be futile.

References

1. *Juvenile Justice Management*. Springfield, Illinois. Charles C. Thomas (Gary Adams, editor, 1973).

2. Killinger, George and Cromwell, Paul, Jr., *Corrections in the Community*. St. Paul, Minnesota: West Publishing Company, 1974.

3. *Probation and Parole*. New York: John Wiley & Sons, Inc., (Robert Carter and Leslie Wilkins, editors, 1970).

Related Standard

The following standard may be applicable in implementing Standard 23.5:

23.6 Authority of Community Supervision Workers

Standard 23.6

Authority of Community Supervision Workers

The authority of community supervision workers to enforce conditions, provide services, purchase services, or recommend modification of the dispositional order is derived from the family court. Neither the worker nor the State agency should modify, substitute, or escalate any condition of the dispositional order without the specific authorization of the family court.

In their capacity as officers of the court, the community supervision workers should have peace officer powers, including the powers of arrest, search, and seizure of contraband items. These peace officer powers should not, however, extend to the carrying of firearms.

Commentary

The community supervision officer is responsible for enforcing the orders of the court. This frequently requires peace officer powers including arrest and search and seizure. In addition, the community supervision officer should have the authority to recommend modification of court dispositions and to petition the court on behalf of the juvenile.

The community service worker may petition the family court at any time during the course of the disposition—on the agencies' own motion or at the request of the juvenile or his parents. The worker may do this to reduce the nature or the duration of the disposition because it exceeded the statutory maximum, was imposed illegally, was inappropriate in light of newly discovered evidence, or was unduly severe compared with dispositions given by the same court for similar offenses. It appears that by doing so, the agency can prevent an unduly harsh or inequitable result; that changes have occurred in the juvenile's home situation; or that the objectives of the original order have been achieved.

In addition, the agency has a responsibility to advise the family court when it appears that access to required services is not being provided.

This standard, and others, also serves to limit the authority of community supervision officers; in this respect, one of its aims is to reduce dispositional inequality. As the National Advisory Commission on Criminal Justice Standards and Goals recognized, "an offender who believes he has been sentenced unfairly in relation to other offenders will not be receptive to reformative efforts on his behalf." It complements the standards that place limitations on the authority of the agency and its community service workers such as Standard 19.6, Limitations on Authority, or Standard 14.21, Modification of Dispositional Orders. This standard authorizes the correctional agency to reduce a juvenile's disposition by an amount not to exceed 10 percent of the original length, provided the juvenile has refrained from major infractions of the dispositional order or of the reasonable regulations governing a remedial program in which he was placed. This standard also provides that, at the time of the disposition order, the court may delegate to the agency the authority to reduce the disposition to a less severe sanction or shorter duration.

The agency is prohibited from increasing dispositions. Neither the severity nor the duration of a disposition should be increased to ensure access to services.

In addition, Standard 19.7 on the Right to Refuse Services provides that the juvenile may refuse a service unless it has been required by the dispositional order of the court, is legally required for all juveniles (such as education), is necessary for the protection of health, or is of such a nature that the juvenile must have a reasonable exposure to it to enable him to make an informed decision about acceptance or rejection.

References

1. *Inmates of Boys' Training School* v. *Affleck*, 346 F. Supp. 1345 (1972).

2. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 23.6:

19.6 Limitations on Authority
19.7 Right to Refuse Services
23.7 Noncompliance With Court Orders
23.8 Investigation of New Law Violations

Standard 23.7

Noncompliance With Court Orders

Community supervision workers should petition the family court in cases involving alleged noncompliance with the conditions of the court's dispositional order. However, the petition should not request that the juvenile be taken into custody prior to a hearing unless there are reasonable grounds for believing that:

1. The juvenile poses an imminent threat of physical harm to another person;

2. The juvenile is in danger of physical harm from another and requests protection; or

3. The juvenile is in imminent danger of causing physical harm to himself.

Commentary

A juvenile's failure to comply with a major condition of a dispositional order should be reported to the court. Some orders are so generally stated—"obey his parents" or "attend school regularly"—that if one were to follow the letter of this standard, there would scarcely be time to do anything other than report noncompliance matters to the court. In the absence of specific directions from the court, a rule of thumb for community supervision staff is to report only those matters that would have resulted in the filing of a petition if the juvenile were not already on probation or parole. Clearly, there are times when a specific condition of probation or parole is so central to the entire supervision plan that any noncompliance requires a new hearing if community supervision is to have any meaning at all. (An example would be a condition that a delinquent guilty of assault not go near the neighborhood of the victim.) Aside from these special circumstances, community supervision workers will have to decide, subject to their supervisor's review, which matters of noncompliance are of significant importance to warrant reporting to the court. Willful and deliberate noncompliance should always be reported, no matter how minor.

Usually, in matters of noncompliance, there is no need to detain the juvenile pending the court hearing. If a new serious law violation is alleged, the intake unit will undoubtedly file a new petition and apply the regular detention criteria. Generally speaking, preadjudicatory detention criteria should apply equally to those on community supervision and those who are not. The time to consider prior record is at the dispositional hearing, after an adjudication has been made of the alleged delinquent act. To consider it before adjudication is to prejudge the facts and impose a presumption of guilt. There always will be exceptions to the general rule, and as in the example above, preadjudicatory detention may well be indicated if the juvenile admitted he or she was in the neighborhood of the victim but denied any wrongdoing.

The primary purpose of this standard is to indicate the appropriateness of preadjudicatory detention in cases where the juvenile poses an imminent threat of physical harm to another person, as in the case of a juvenile on community supervision who seeks out a victim or a witness and threatens retaliation. In such a case, detention pending a rehearing would be entirely appropriate. In cases where a juvenile is in danger of physical harm from another or from him or herself, detention may be appropriate, but should be in a nonsecure facility if at all possible.

Juveniles should basically have the same right to liberty as adults. In the family court the juvenile is not charged with a crime and is not "entitled" to bail, which places a greater burden upon officials who make detention decisions. Whatever criteria are applied to granting preadjudicatory liberty to adults should apply equally to juveniles.

References

1. American Bar Association. *Standards Relating to Probation.* New York: Institute for Judicial Administration, 1970.

2. *Morales* v. *Turman,* 364 F. Supp. 166 (E.D. Tex. 1973).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections.* Washington, D.C.: Government Printing Office, 1973.

4. *Prisoners in America.* Englewood Cliffs, New Jersey: Prentice-Hall (Lloyd Ohlin, editor, 1973).

Related Standards

The following standards may be applicable in implementing Standard 23.7:

14.22 Enforcement of Dispositional Orders When Juvenile Fails to Comply
23.6 Authority of Community Supervision Workers

Standard 23.8

Investigation of New Law Violations

The community supervision workers should refer cases involving the commission of a new law violation by the delinquent to the juvenile intake unit for full investigation. Upon completion of the investigation, intake personnel should either petition the court for modification of the disposition in accordance with Standard 14.22 or refer the case to the family court prosecutor for adjudication of the new law violation.

Commentary

During the course of a juvenile delinquent's community supervision period, there may be times when he will be alleged to have committed a new delinquent act. Some are so minor (noisy mufflers, etc.) that little is called for other than a discussion with the juvenile about the need for more circumspection. The more serious cases, particularly where the person or property of another has been violated, should be reported to the police so that they may make their own investigation and clear their own pending cases. Following police investigation, the matter should be referred to intake, which should file a new petition and refer the case to the family court prosecutor, or petition the court for a modification of the prior order. There should be an adjudication of the facts whenever the alleged delinquent act is serious. Occasionally the intake unit will learn of a minor law violation before it comes to the attention of the community supervision worker. If the law violation is minor (a probationer picked up with a gang of boys and charged with curfew violation), referral may be made directly to the community supervision worker without an adjudication of facts. The community supervision worker may, at his or her discretion, file a noncompliance petition if this latest alleged law violation, taken in the context of the juvenile's total adjustment, warrants it.

On all serious matters there should be an adjudication regardless of whether the juvenile admits the act. The youngster may admit the alleged delinquent act today and deny it tomorrow. The juvenile may think he or she is being encouraged to admit it. Whatever the case, there should be a full court hearing with all the protections that it affords. Future dispositions will then be more soundly based.

Placing responsibility with intake for investigating all new law violations and presenting them in court will relieve the community supervision worker of a considerable amount of work. This type of specialization is favored by most judges and probation administrators who have had experience with it. Time is saved in preparing and delivering notices, and much less time is wasted waiting in corridors for a case to be called.

References

1. American Bar Association. *Standards Relating to Probation*. New York: Institute for Judicial Administration, 1970.

2. American Law Institute, "Articles on Suspended Sentences, Probation and Parole" in *Model Penal Code*, 1962.

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 23.8:

14.22 Enforcement of Dispositional Orders When Juvenile Fails to Comply

21.2 Processing Applications for Petitions to the Family Court

Standard 23.9

Education and Training

Community supervision staff should possess the necessary educational background to enable them to implement effectively the dispositional orders of the family court. They should possess a minimum of a bachelor's degree in one of the helping sciences, e.g., psychology, social work, counseling or criminal justice. In addition, they should receive 40 hours of initial and 80 hours of ongoing training each year in the subject areas in which they will be required to provide services.

Commentary

To deliver the level of services described in these standards, community supervision staff must be appropriately trained. The standards of the National Advisory Commission on Criminal Justice Standards and Goals, and those established in the *Morales* v. *Turman* decision in Texas, recommend at least 40 hours of preservice and inservice training per year. This responsibility for training supervision staff falls upon the agency because there is no general agreement on what type of educational program or what body of knowledge is necessary to prepare personnel for community supervision tasks.

The majority of employees entering the juvenile correctional field have little or no actual experience in working with troubled youth. While caseworkers may be schooled in general social work skills and techniques, they may not be prepared to understand or assess the needs of troubled and troublesome juveniles and their families, much less provide the direct services required. Their social work backgrounds would have prepared them to accept hostility and to understand human motivation, but it may not have taught them how to cope with openly defiant and occasionally violent youth. They may be deficient in the area of vocational counseling and job-finding. And they almost certainly will know little about referrals and intake policies of the many existing social agencies in the community. Orientation training on all these matters is vitally important.

All agency employees who are recruited to provide diagnostic and direct services to juveniles under the supervision of the community service division should receive training including but not limited to: classification and diagnostic theories and techniques; individual counseling techniques; group counseling techniques; family therapy; job finding and vocational counseling; cultural diversity; human relations; crisis intervention techniques; and legal rights of juveniles.

The development of individual training plans should be the responsibility of the employee's immediate supervisor. Agency training personnel should be responsible for developing and implementing a training program with participation from line supervisors and individual workers. Administrators should provide adequate budgetary resources for the recommended level of training.

Besides minimum orientation training, employees need ongoing instruction to continue their professional growth. Professional development should be based on an individual training plan developed by the employee and his or her supervisor. This plan should take into account the employee's own professional objectives and the needs of the agency. This ongoing professional development should be supported by the agency either through specialized inservice training or training available outside the agency. The program also should include not only inservice training in professional skills but also in supervisory and management functions.

Community supervision staff have considerable responsibility toward the family court and considerable power over the juveniles and their families. It is important, therefore, that the agency develop a code of conduct for all staff. This code must govern the worker's relationships with juveniles, their families, and the public. Employees of private agencies under contract to the department also should be informed of the code; the code also should be included as a condition in every contract for service that involves contact with juveniles or their families.

References

1. Adams, Gary. *Juvenile Justice Management.* Springfield, Illinois: Charles A. Thomas, 1973.

2. *Probation and Parole.* New York: John Wiley and Sons, Inc. (Robert Carter and Leslie Wilkins, editors, 1970).

3. Nelson, Elmer and Lovell, Kathern. *Developing Correctional Administrators.* Washington, D.C.: Joint Commission on Correctional Manpower and Training, 1969.

Related Standards

The following standards may be applicable in implementing Standard 23.9:

19.9 Personnel

19.10 Training

Standard 23.10

Dual Jurisdiction and Interstate Compact

Whenever an adjudicated delinquent is found to be under the jurisdiction of more than one court, the matter should be returned to the family court of original jurisdiction with a recommendation as to whether the jurisdiction of one or more of the courts should be terminated. However, nothing in this standard should be construed to interfere in any way with the provisions of the Interstate Compact or with the provision of services to a minor in one State by the community supervision staff of another State.

Commentary

The large number of political and legal jurisdictions in our Nation, coupled with the mobility of juveniles and their families, results in cases where two or more courts have jurisdiction over a single case. This may cause duplication of effort, conflicting service plans, and contradictory court-ordered conditions of supervision. The agency should enter into negotiation with any other jurisdiction having authority over a juvenile under its jurisdiction with the aim of determining whether the jurisdiction of one or more of the courts should be terminated. The protection of society and the service needs of the juvenile should be the focus of such negotiations.

When dual jurisdiction involves two or more States, the case should be referred to the office within the State agency having responsibility for administering the Interstate Compact for appropriate investigation and determination of any needed recommendations to the court.

Participation in the Interstate Compact is required to control unregulated interstate movement of unsupervised adjudicated juveniles. Participation in the Interstate Compact is needed to prevent juveniles from effectively avoiding the court's orders by crossing State boundaries.

References

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2. Council of State Governments. *Handbook on Interstate Crime Control*. Chicago: Council of State Governments, 1966.

Chapter 24

Residential Facilities for Adjudicated Delinquents

INTRODUCTION

It must be recognized that community supervision and inhome services will not suffice for all adjudicated delinquents. After assessing the needs of both the juvenile and the public, in some cases the family court will order out-of-home placement. Provision must then be made for placing the child in a residential facility.

The traditional response in these cases has been to remove delinquents not only from their homes but from the community as well. Usually they have been placed in institutions located in rural, isolated areas. These institutions often have been large, with populations ranging from 200 to more than 1,000. Most States have relied primarily on secure training schools that emphasize educational and vocational training programs. Past experience with these large institutions has generally been unsatisfactory. All too often physical and psychological brutality has become part of the culture of such facilities. Recognizing these difficulties, in recent years a number of States have been experimenting with smaller, community-based residential facilities.

The standards in this chapter provide general directions for the types of residential facilities that should be available in each State and outline a variety of services and programs that these facilities should provide. First, the standards indicate that the State agency should establish a statewide network of a wide variety of residential facilities, ranging from secure institutions to camps, ranches, and residential schools. The State agency should be empowered either to operate these facilities itself or to contract with local public or private organizations for their operation (see Standard 24.1).

Focusing next on secure facilities, the standards emphasize that the number and use of these facilities should be kept to an absolute minimum. The standards stipulate that bed capacity of secure facilities should not exceed 100 and that, insofar as geographic constraints permit, the facilities should be located in or near the communities from which they draw their delinquent population. Moreover, the size of the living units should not exceed 20 beds and each living unit should be staffed with an adequate number of trained professionals (see Standard 24.2). The standards also discuss what procedures should be developed by secure facilities to assure the safety of residents and staff and prevent juveniles from escaping (see Standard 24.3). Completing the discussion on which facilities should be available, another standard underscores the importance of developing a variety of nonsecure facilities. And the commentary sets forth specific recommendations for facilities of this nature (see Standard 24.4).

A series of five standards focuses on educational and vocational training programs. The first of these standards indicates that each facility should develop educational and vocational programs geared to the reintegration of youth into the community. It highlights the importance of providing appropriate opportunities for work or educational furloughs and indicates that, if juveniles cannot attend community schools, they should receive academic credit for education in the facility that can be transferred to community schools (see Standard 24.5). The second standard discusses the importance of conducting an educational assessment and diagnosis of each adjudicated delinquent, outlining some of the factors that should be considered in formulating an appropriate educational plan (see Standard 24.6). The third and fourth standards focus on the content of educational and vocational training programs. They outline the general categories of instruction that should be available in academic, prevocational, and vocational training programs (see Standards 24.7 and 24.8). The fifth standard highlights the need for a professionally trained educational staff differentially placed in each facility to meet the needs and interests of the clientele (see Standard 24.9).

The next three standards are directed to other types of services and programs that should be available to adjudicated delinquents. The first of them indicates that the State agency should assure the availability of medical and dental care and some forms of mental health services for delinquents placed in residential facilities (see Standard 24.10). Consistent with the position that these residential facilities should not be used for long-term treatment of the mentally ill or mentally retarded (see Standards 14.18 and 19.5), this standard stipulates that mental health services should be limited to diagnosis and short-term treatment. The second standard focuses on rehabilitative services, indicating that the State agency should provide or assure the provision of a variety of these services on a voluntary basis (see Standard 24.11). In addition, this standard states that the agency should assure the availability of recreation and leisure time activities on both an individual and team basis (see Standard 24.12).

Another standard focuses on communications between delinquents and their families and others who are significant in their lives (see Standard 24.13). The standard emphasizes that the State agency should encourage and make no undue prohibitions against visits, phone calls, and letters. Another standard—on work assignments and work release programs—likewise speaks to the importance of providing delinquents with opportunities for continuing contact with the community when feasible. It states that facilities housing delinquents of an employable age should provide work release programs. And it calls for limiting work assignments in the residential facility to normal housekeeping and yardkeeping tasks in the living area and work directly related to vocational training programs. Other productive work in the facility should be remunerative and use of the delinquent's wages for restitution or family support should be authorized only when ordered by the family court (see Standard 24.14).

The two remaining standards in the chapter relate to health, safety, sanitation, and food services. They emphasize the importance of regular inspections to assure compliance with health, safety, and sanitation codes (see Standard 24.15). And they vest the State agency with responsibility for assuring the provision of a nutritionally adequate and acceptable diet (see Standard 24.16).

References

1. California Department of Youth Authority. *Fricot Ranch Study*. Sacramento: State of California Documents Section.

2. California Department of Youth Authority. *Standards for Juvenile Homes, Ranches and Camps*. Sacramento: State of California Documents Section, 1972.

3. Children's Bureau, U.S. Department of Health, Education, and Welfare. *Institutions Serving Delinquent Youth*. Washington, D.C.: Government Printing Office, 1962.

4. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

5. President's Commission on Law Enforcement and Administration of Justice. *Task Force Report: Corrections*. Washington, D.C.: Government Printing Office, 1967.

Standard 24.1

Development of a Statewide System

The State agency should establish a statewide network of coeducational residential facilities for the care and training of adjudicated delinquents committed to its custody. These facilities should be of a wide variety, ranging from secure facilities to camps, ranches, and residential schools. They may be operated by the State agency under a division of residential services or by local public or private organizations.

Commentary

This standard recommends an integrated statewide system for the institutional placement of adjudicated delinquents who require removal from their homes and varying degrees of care, control, structure, and specialized services. It replaces the often fragmented, uncoordinated, and overlapping juvenile correctional service delivery systems by providing a singular and uniform level of administration and accountability at the State level.

Placing the responsibility with the State agency would help to insure that correctional resources are distributed in an equitable manner based upon need. It would allow for a wide variety of residential facilities to provide for adjudicated delinquents committed to custody by the family court. Existing disparities in the administration of justice and extension of correctional services would be substantially alleviated. A statewide network of coeducational residential facilities would have the capability to focus upon the adjudicated delinquent as an individual and provide the most appropriate and least restrictive placement based upon community protection considerations and client services needs. Such a system would abandon the traditional concept of separate institutions based on sex. Instead, it would provide an institutional environment that more nearly approaches the community environment. This approach is consistent with the agency's responsibility to insure a basic level of care by providing the opportunity to experience normal growth and development through socialization with peers of both sexes.

A statewide network would provide a wide variety and scope of residential services ranging from secure closed institutions to open, unstructured facilities. These programs would be developed to meet the varying needs of adjudicated delinquents committed to the system and would provide reasonable assurance of communuity protection. The system would offer the opportunity for improved communications and mutual awareness among the judiciary, the correctional system, and the public by providing uniformity in the administration and provision of needed resources throughout the State.

The State agency should also be authorized to subsidize the construction and operation of community-based residential facilities operated by qualified private agencies. Implicit here is the ability to make use of a broad spectrum of resources through purchase of services arrangements. No new facilities should be constructed, however, until it has been demonstrated that the need is urgent and cannot be met in any other manner. Particular care should be exercised in the development of additional secure facilities. Cost effectiveness and the efficient and effective disbursement of available financial resources is critical.

Finally, in the administration of a statewide network of residential facilities, the State agency should have the authority and resources to establish standards and to monitor, inspect, and evaluate all residential facilities in which adjudicated delinquents are placed. This authority should include those facilities that the State operates as well as those from which it purchases services. It should be able to terminate any contractual arrangements and remove juveniles from any facilities that do not meet the standards established for their operation.

References

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Related Standards

The following standards may be applicable in implementing Standard 24.1:

19.3 Provision of Services
24.2 Secure Residential Facilities
24.4 Nonsecure Residential Facilities

Standard 24.2

Secure Residential Facilities

A secure residential facility is one that is used exclusively for the placement of adjudicated delinquents where the staff controls the rights of the delinquents to enter or leave the facility. As a part of its network of residential facilities, the State agency should maintain a number of these facilities. The precise number of secure facilities should be based on need and should be kept to an absolute minimum.

Secure residential facilities should comply with the following guidelines:

1. They should not exceed a bed capacity of 100. The State agency should develop a plan with specific time limits to remodel existing facilities to meet this requirement or to discontinue the use of present facilities that have a population in excess of 100. No new facilities should be constructed unless it can be demonstrated that there is a need for them and that this need cannot be met by any other means.

2. They should be located in or near the community from which they draw their population insofar as geography and demographic constraints permit.

3. The living units' capacity in secure facilities should not exceed 20 beds and should provide an individual room for each delinquent. Design should also provide space for recreation, offices for staff, and an area for quiet games and study.

4. They should be staffed with an adequate number of trained professionals from the various disciplines necessary to provide specialized program services as well as basic care. Staffing ratios should be developed on the basis of the 20-bed living unit.

Commentary

This standard would provide for the operation of residential facilities throughout the State to provide a secure and closed setting for adjudicated delinquents who clearly demonstrate a need for maximum control and intensive residential care and services. In accordance with Standard 14.4 on the selection of the least restrictive alternative, the number of such facilities should be kept to a minimum. No new facilities should be constructed unless the need is clearly demonstrated through an indepth analysis of all pertinent factors. A secure institution is the most costly facility to construct and operate. For this reason, also, the number should be limited to make best use of available funds.

Secure residential facilities should not exceed a bed capacity of 100. Traditional juvenile correctional institutions frequently range in size from 200 to more than 1,000 beds. In such facilities, operational needs tend to be primary and client needs secondary. In a 100-bed institution, as opposed to larger facilities, the possibility that inmates will know all of the other juveniles is enhanced. In addition, each staff person can acquire some familiarity with each inmate. This lessens the fear of the unknown and enhances a climate conducive to positive human relations and rehabilitation.

Large institutions tend to be dehumanizing and may submerge inmates in a variety of subcultures, many of which are socially and emotionally destructive. It becomes virtually impossible to provide the environment of safety, normalcy, and fairness that is basic to effective treatment. Maintaining day-to-day control becomes the emphasis and program services deteriorate. The most difficult and sophisticated delinquents are integrated with less serious ones and contamination often occurs.

Secure residential facilities should be located in the communities from which they draw their population as delinquents placed in such facilities will eventually return home. It is critical that, to the degree possible, their ties to the community remain intact. This can be achieved by measures such as family involvement and visitation both within and outside the institution, use of community resources such as volunteers, involvement by residents in appropriate community activities, and keeping inmates up-to-date on significant happenings in their communities. Staff should also come from local areas. In these circumstances, delinquents will be better able to reintegrate themselves into the community and function in a nondelinquent manner upon release.

The capacity of individual living units should not exceed 20 residents to permit emphasis upon reeducation rather than just custodial operations. Living units should be small enough to afford a maximum amount of interaction between staff and residents. The complexity of group living relationships and other inherent problems increases in a disproportionate ratio to increased living unit sizes.

Living units should also provide for privacy, recreational space, and offices for staff. Group recreation and dining facilities are appropriate. Individual sleeping rooms should be provided, however, to insure a reasonable amount of privacy and safety to delinquents. Adequate indoor and outdoor recreation space and facilities should be provided for each living unit and for the total facility.

The safety of both the adjudicated delinquents and the staff in a secure facility requires that an appropriate basic care child-staff ratio be maintained. The behavior patterns of youngsters who need to be placed in such a setting involve acting out, which periodically requires physical intervention on the part of staff. An adequate level of basic care staff is required to carry out this function safely and in a manner that gives a sense of security to staff and wards. The following is recommended staffing for each 20-person living unit:

Living Unit Team Supervisor	1
Caseworker	1
Senior Living Unit Counselor	1
Living Unit Counselors	9

Shifts should be arranged so that, except for the sleep period, there are never fewer than two counselors on duty at any given time. Sufficient maintenance, support, and security staff should also be employed to insure the efficient operation and upkeep of the facility.

Rehabilitation can take place in part through the interaction of basic care staff and adjudicated delinquents. It can be enhanced and accelerated through the additional involvement of staff with special skills. The program demands on basic care staff and casework staff require that additional staff be available to provide the necessary support, maintenance, and security services to meet program objectives.

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Related Standards

The following standards may be applicable in implementing Standard 24.2:

14.4 Selection of Least Restrictive Alternative
24.3 Security

Standard 24.3

Security

It should be the responsibility of the administrator of each secure residential facility to assure the safety of both residents and staff and to prevent juveniles from escaping.

At a minimum, each secure facility should relate its security policies and procedures to the following areas: relationship between staff and juveniles, written policies and procedures, classification system, staff training, staffing ratios, structure of the facility, and security equipment.

Commentary

The best assurance of protection for staff and residents is achieved when these groups enjoy good relations. Thus, programs should be designed to encourage positive interaction between staff and juveniles and to cultivate mutual trust. Staff are important to the juveniles as adult models and they should be made aware of this role in all preservice and inservice training. Each secure facility should have written procedures covering the major areas of security in its own program location. A method should be established for the routine dissemination of this information to staff.

Provision for training in emergency and security procedures should be established. Drills and practice sessions in different emergency or security contingencies should be an ongoing part of institutional operations. All new staff should receive orientation training prior to job assignment. Standard training curriculum should include basic security procedures, crisis intervention, group control techniques, and emergency and major disturbance plans. All staff should have ongoing training to keep them apprised of changes.

Each institution should have a system for assignment of juveniles to programs and classrooms. This system should provide means for staff to receive background information on delinquents, including such areas as violence potential, medical abnormalities, emotional disorders, gang affiliations, and other pertinent information.

All structures in an institution should be constructed to provide security for prevention of intrusion and escapes and for protection of residents and staff. All exterior doors and doors within the security areas should be constructed and installed to prevent access by unauthorized personnel and to reduce damage. All windows and window openings should be constructed or modified to prevent escape or damage. Rooms should have doors, windows, and screens as well as toilet and light fixtures that are designed and constructed of materials to prevent injury, to avoid damage or removal, and to minimize the chance of passing contraband.

There should be clear policy on the use of chemical and physical restraints with provisions for training, documentation on its use, accountability, and sanctions for improper use. Chemical and mechanical restraints should be authorized for security purposes only. The use of mechanical restraints should be limited to restraining juveniles from engaging in activities or behavior that would endanger themselves or others, in preventing serious destruction of property, and in transporting juveniles under security precautions. The use of chemical restraints should be limited to preventing the juvenile's injury (see Standard 19.6). In each situation, care should be taken to assure that no greater force is used than is reasonable and necessary to control the situation. Under no circumstances should a chemical or mechanical restraint be used as punishment, retaliation, or for disciplinary purposes.

All facilities should have the necessary equipment and trained staff to make possible the exclusion of harmful contraband materials. These capabilities should include the detection of contraband material passing from one section of the institution to another, such as from shops to living units. A stationary metal detection device should be available for screening all persons entering the institution for dangerous metal objects. Hand scanner metal detectors should also be available. Each institution should have a narcotic detection identification capability developed in cooperation with local law enforcement agencies.

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Related Standards

The following standards may be applicable in implementing Standard 24.3:

19.6 Limitations on Authority
24.2 Secure Residential Facilities

Standard 24.4

Nonsecure Residential Facilities

A nonsecure residential facility is one in which a small number of adjudicated delinquents reside where the delinquents can enter or leave the facility under staff supervision or, if authorized, without staff supervision. As a part of its network of residential facilities, the State agency should maintain a variety of these facilities for those delinquents who do not need a secure facility but are unable to remain in their own homes.

Commentary

This standard would provide for a wide variety of nonsecure placement facilities for adjudicated delinquents committed by the family court. A nonsecure facility is open in nature and designed to allow for maximum participation by youth in the community and its resources. Nonsecure residential facilities should be developed and operated by the State agency directly or through purchase-of-service arrangements with appropriate public and private agencies. The following guidelines are recommended for the administration of such facilities:

1. Maximum bed capacities should be:
   a. Ranches and camps—40 to 60 beds;
   b. Community-based residential programs—12 to 20 beds;
   c. Group homes—4 to 12 beds; and
   d. Foster homes—1 to 4 beds.
2. They should be located in or immediately adjacent to the communities from which they draw their delinquent population; and
3. They should be staffed with an adequate number of trained personnel from the disciplines necessary to provide basic care and to offer rehabilitative programs. The ratio of staff to delinquents in all categories of nonsecure facilities should be: caseworkers—1 to 20 and counselors—1 to 5 (on duty at any given time, except sleep period, when it can be 1 to 20).

Many delinquents requiring placement in a residential setting do not pose the kind of threat to the community that necessitates their maintenance in a closed secure facility. Standard 14.4, Selection of Least Restrictive Alternative, mandates that nonsecure community placement be utilized whenever possible. A wide variety of programs enhances the opportunity to apply this standard and to provide for more humane and effective treatment of delinquent youth.

The quality foster home represents the placement that has the greatest potential to provide the parent-child relationship that most youngsters need to experience. It does, however, place a demand on them to become closely involved emotionally with adults.

So although it represents an ideal placement for some delinquents, it poses a very real threat to others who have experienced a very poor relationship with their parents and have developed an intense distrust of a close parental relationship.

No more than four children should be placed in a foster home. A small number will enhance their opportunity for attention, guidance, and care from the foster parent. Foster home placement failures are not only expensive in terms of staff time but are also very damaging to youngsters who experience them. Such failures can be decreased by good foster parent selection and training and by ongoing support to foster home placements.

Although many youngsters placed in group homes, community-based residential programs, and ranches or camps cannot handle the close personal relationships that exist in a foster home, they are more capable of benefiting from a positive relationship with program staff than delinquents placed in larger, secure institutions. A ratio of one staff member on duty for each five youngsters is a necessary minimum standard to take full advantage of the reeducative potential of a meaningful adult-child relationship and provide an adequate level of care and control.

The group home staffed by a small number of qualified persons in a large house in a residential setting should accommodate from four to a maximum of 12 youngsters. This kind of setting still does not take on an institutional atmosphere but does provide professional child care staff who do not place the expectation of a close parent-child interrelationship on the child. The professional staff also has an increased capacity to tolerate and handle youngsters who act out more than can be adequately controlled in a foster home setting.

The community-based residential program that accommodates from 12 to 20 youngsters offers a placement that minimizes the institutional atmosphere. The relatively small number of juveniles still offers an opportunity for a close but controlled interaction between staff and delinquents. It also allows the juvenile to attend public schools and to be involved in other appropriate community activities.

The ranch or camp provides a placement away from the immediate community. With a capacity of 40 to 60 as a maximum, some of the negative aspects of a larger institution are avoided and yet the population is large enough to support the development of such components as school and recreation programs within the facility.

By locating each of these facilities in or adjacent to the communities from which the delinquent population is drawn, isolation from the communities is minimized. Reintegration into the community is enhanced if, during the institutional stay, the delinquent is allowed visits from family, furloughs home, information about community activities, and if volunteers participate in the program.

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Related Standards

The following standards may be applicable in implementing Standard 24.4:

14.4 Selection of Least Restrictive Alternative
24.1 Development of a Statewide System

Standard 24.5

Educational and Vocational Training

Each facility that is responsible for the care and treatment of adjudicated delinquents should examine its educational and vocational training programs to insure that they meet the individual needs of its clientele. Such programs should be geared directly to the reintegration of youth into the community and should have provisions for continuing support within the community supervision program.

Appropriate opportunities for work or educational furloughs should be provided. Where possible, the juvenile should receive education within the community. Where this is not possible, the juvenile should receive academic credit for education in the facility that can be transferred to schools in the community. Appropriate professionally trained educational staff should be employed or contracted to provide the needed educational and vocational programs.

Commentary

This standard provides for the planning and implementation of relevant and adequate educational and vocational training resources by the State agency for those delinquents committed to its custody. Resources available in the community should be used to the greatest extent possible and not duplicated in residential settings.

Opportunities for educational and work program involvement in the community should be maximized. Early emphasis should be placed upon participation in programs that will initiate the reintegration of the youth into the community in constructive ways that are both personally and materially rewarding. These programs should have continuity and provision for further support to the delinquent upon return to the community.

In some situations, community resources are not available or cannot be obtained, or the delinquent must be maintained in a closed security setting. In these cases, the State agency should provide a broad range of educational and vocational training resources. Emphasis should be placed on factors of individual and collective resident need, local community resources, and economic factors (such as type and availability of employment resources) and not upon operational needs of the institution. Academic credit applicable to public school systems should be earned by residents.

Instructors should not only be required to have State certification but also to possess the personal qualities and special educational training necessary for dealing with delinquent behavior. The State agency should develop clearly defined performance criteria for instructional personnel and to evaluate whether the programs meet their objectives.

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Related Standards

The following standards may be applicable in implementing Standard 24.5:

24.6	Educational Assessment and Diagnosis
24.7	Educational Programs
24.8	Prevocational and Vocational Programs
24.9	Educational Program Staffing

Standard 24.6

Educational Assessment and Diagnosis

Each adjudicated delinquent should be assessed in terms of academic, vocational, and personal needs. The assessment should be accomplished through acquisition of relevant information both of record and by interview at such community resources as public and private schools and agencies, places of employment, known associates, and parents or guardians.

The assessment should cover those factors that are pertinent to the development of an appropriate educational plan. These factors should include, but not be limited to: attitude toward education, achieved academic levels, developed vocational skills and expressed interests, level of cognitive development, most efficient or disabled communication modality, learning style, functional level of vision and hearing, significant physical abnormalities or disabilities, and feelings related to self-worth and such neurotic traits as might be causal factors in emotional impediments to learning.

Commentary

This standard provides for an assessment of the educational needs of each delinquent committed to the State agency, with emphasis upon providing individualized educational and vocational programming based on client need. The agency should have access to pertinent information from such community resources as schools, places of employment, associates, and parents or guardians. The assessment should include all factors that relate to learning skill and deficiencies, achievement levels, interests, attitude and motivation, physical or emotional abnormalities and disabilities, other learning impediments, and cultural and other significant factors.

Qualified academic and vocational psychometric and diagnostic staff will be required. Such persons should be sought from existing community instructional programs whenever possible. This can be accomplished through purchase of service arrangements with public and qualified private agencies. This would facilitate mutual cooperation and continuity between community agencies and residential programs. Where such services are not available in the community the agency should provide them.

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Related Standards

The following standards may be applicable in implementing Standard 24.6:

24.5 Educational and Vocational Training
24.7 Educational Programs
24.8 Prevocational and Vocational Programs

Standard 24.7

Educational Programs

Each facility should have a comprehensive academic educational program. Such a program should include, but not be limited to, instruction in the following broad categories: developmental education, remedial education, special education, multicultural education, bilingual education, tutorial services, and higher education (community college program).

Commentary

This standard provides for a broad academic educational program. Each placement facility administered by the State agency should establish and maintain comprehensive, nongraded, continuous educational services for its residents. These programs could be provided on site, by appropriate community resources and facilities, or in an individualized instructional program combining needed academic services from a variety of sources.

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5. *Procedures for Appraising California Youth Authority Education Programs*. California Department of the Youth Authority; Sacramento: California Department of the Youth Authority, rev. ed. 1971.

Related Standards

The following standards may be applicable in implementing Standard 24.7:

24.5 Educational and Vocational Training
24.6 Educational Assessment and Diagnosis
24.9 Educational Program Staffing

Standard 24.8

Prevocational and Vocational Programs

Each institution should have prevocational and vocational training programs to enhance the juveniles' marketable skills. Such programs should include, but not be limited to: prevocational orientation, world-of-work education, vocational instruction and counseling, related remedial instruction, career education and counseling, and employability plans and work experience.

Commentary

This standard provides for the development and implementation of relevant vocational and prevocational training to provide residents with entry-level job skills. This training should place emphasis upon redirecting the behavior of delinquents to socially acceptable activities aimed at developing their ability to obtain employment, achieve job satisfaction, and prepare for self-sufficiency. Emphasis should also be placed upon identification and use of appropriate community resources to provide this training. Components of the program should include prevocational instruction, vocational instruction and counseling, related remedial instruction, career education and counseling, employability plans, and work experience.

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Related Standards

The following standards may be applicable in implementing Standard 24.8:

24.5 Educational and Vocational Training
24.6 Educational Assessment and Diagnosis

Standard 24.9

Educational Program Staffing

Each facility should provide a professionally trained educational staff. This staff should be differentially placed in each facility to meet the academic and vocational needs and interests of the clientele.

Commentary

The academic abilities and achievement levels of delinquents placed in residential settings are varied and cover a wide range. Some children are capable of learning but are underachievers. Others are unable to benefit from academic subjects but have the potential to achieve in vocational training programs.

Quality education, even under the most ideal circumstances, can only be provided by well-qualified personnel. But the challenge to educators is even more demanding in a residential setting where diverse abilities, severe behavioral problems, social deficiencies, and other barriers to normal learning exist. Teaching personnel must be highly skilled and professionally trained.

To increase the potential of education programs, teachers should be assigned on a differential basis. Their training and personal strengths should be matched as nearly as possible to the needs of individual delinquents. In addition to being an educational challenge, the delinquent is often difficult to control because of the tendency to act out and may also have a lack of motivation to learn.

Intensified academic and vocational instruction is essential to provide individual attention and group control measures for this group of younsters. The following ratios of educational staff to juvenile clientele are recommended to provide minimal education services:

Elementary School Teacher	1:10
Junior High School Teacher	1:10
High School Teacher	1:10
Vocational Instructor	1:10
Junior College Teacher	1:15
School Counselor	1:100
School Psychologist	1:100
Reading Specialist	1:100
Math Specialist	1:100
Vocational Rehabilitation Counselor	1:50

Academic and vocational instructional programs should also have an adequate and attractive physical setting. These facilities should be adequate to meet functional needs and program objectives. Appropriate use of available offsite community resources should be emphasized. Individual classrooms within the facility should be spacious and well equipped to provide for intensive and specialized instructional activities with both individuals and groups. These classrooms should not be smaller than 780 square feet.

References

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Related Standards

The following standards may be applicable in implementing Standard 24.9:

24.5 Educational and Vocational Training
24.6 Educational Assessment and Diagnosis
24.7 Educational Programs

Standard 24.10

Medical/Dental and Mental Health Services

Every adjudicated delinquent committed to the State agency should have available comprehensive medical, dental, and mental health care services. Medical and dental services should provide for both diagnostic and treatment needs. Mental health services should provide for diagnosis and short-term treatment.

Delinquents assessed to be mentally ill or mentally retarded should be returned to the family court to determine the validity of such an assessment in accordance with the procedures established in the Standard on Disposition of Mentally Ill or Mentally Retarded Juveniles.

Commentary

The level of health services for delinquents in custody should be of the same scope and quality of care as would be given by private doctors, dentists, or psychologists. It should also include protection of the dignity, privacy, and confidentiality of the child. An assumption basic to the health program is that every individual deserves adequate medical and dental services and that health needs should be met under all circumstances.

Physical condition and physical disabilities often contribute toward the delinquent orientation of a young person. Many adjudicated delinquents, because they come from poor families and areas with insufficient health care services, have a backlog of medical and dental needs. Basic health needs must be met if the delinquent is to improve his behavior.

Careful screening should be done to determine which individuals need diagnostic and therapeutic services. First aid, emergency, and outpatient care should be rendered as needed. Chronic and potentially damaging conditions should be appropriately dealt with. Nonroutine treatment or surgery, except of an emergency nature, should be carried out only with the informed consent of the delinquent and parent or guardian (see Standard 19.6). Followup of released residents with ongoing health problems should be attempted through use of public and community resources.

Health care is the function of many individuals, each having some contribution to make within the scope of his occupation. These include administrators, judges, counselors, community agency representatives, and doctors. The health professionals have their specialized duties but cannot accomplish their part of the task without the joint efforts of others.

The health services program should include prevention as well as medical treatment. It should provide diagnostic psychiatric services, health education, coordination of community resources, and ongoing evaluation aimed at improving effectiveness of the health services program. The State agency can best provide this program by a combination of direct services and purchased services available in the community.

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Related Standard

The following standard may be applicable in implementing Standard 24.10:

19.6 Limitations on Authority

Standard 24.11

Rehabilitative Services

The State agency should provide or assure the provision of an array of rehabilitative services available on a voluntary basis to all delinquents placed in residential settings. These services should include, but not be limited to: individual counseling, small group counseling, community group counseling, drug abuse programs, religious services, and student government.

Commentary

This standard holds that offender rehabilitation should retain its focal emphasis on institutional programs for adjudicated delinquents. The primary goals of the juvenile correctional system are to protect society and to assist delinquents toward a nondelinquent orientation so that they can function in the community in a law abiding manner. The concept of rehabilitation is totally compatible with societal welfare.

In addition to providing basic care services for delinquents in its judisdiction, the State agency has an obligation to make rehabilitation services available. The agency should not make it mandatory to participate in these services but instead should familiarize delinquents with their availability and content. Participation should be voluntary.

Inasmuch as no single model of rehabilitation or treatment technique has proven effective with all delinquents, a variety of approaches and services should be available. The provision of differential service or treatment is supported by findings that indicate that when delinquents with similar characteristics are provided with certain services, their behavior in the community when they return is significantly improved. To the extent possible, the State agency should encourage, solicit, and apply suggestions for program content and service delivery made by delinquent residents.

To provide a total range of quality services, the State agency should purchase any services that can be delivered more effectively by a local community resource. This is consistent with the need to maximize community contact by confined delinquents. If it is determined that follow-up is needed for any service provided in the placement setting, the agency should develop and provide appropriate aftercare services in the community. Emphasis should be placed on the natural community throughout the confinement experience so that return to the community is natural and nonthreatening.

References

1. Bandura, Albert. *Principles of Behavior Modi-*

fication. New York: Holt, Rinehart, and Winston, 1969.

2. Beker, J. and Heyman, D. "A Critical Appraisal of the California Differential Treatment Typology of Adolescent Offenders. *Criminology*, Vol. 10 (May 1972).

3. Briar, Scott and Piliavin, Irving. "Delinquency, Situational Inducements, and Commitments to Conformity." *Social Problems*, Vol. 13 (Summer 1965).

4. Comment, "A Statutory Right to Treatment for Prisoners: Society's Right of Self-Defense." *Nebraska Law Review*, Vol. 50 (1971).

5. Goldfarb, Ronald and Singer, Linda. *After Conviction: A Review of the American Correctional System*. New York: Simon and Schuster, 1973.

6. *Issues in the Classification of Children*. San Francisco: Jossey-Bass (Nicholas Hobbs, editor, 1975).

7. Lipton, Douglas; Martinson, Robert; and Wilks, Judith. *The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation*. New York: Praeger, 1975.

8. *Morales* v. *Turman*, 326 F. Supp. 677 (E.D. Tex. 1971).

9. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

10. President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime*. Washington, D.C.: Government Printing Office, 1967.

11. Schur, Edwin. *Radical Nonintervention: Rethinking the Delinquency Problem*. Englewood Cliffs, N.J.: Prentice-Hall, 1973.

12. Warren, Marguerite. "Classification of Offenders as an Aid to Efficient Management and Effective Treatment." *Journal of Criminal Law, Criminology, and Police Science*, Vol. 62, 1971.

Related Standard

The following standard may be applicable in implementing Standard 24.11:

19.7 Right to Refuse Services

Standard 24.12

Recreation and Leisure Time Activities

The State agency should provide or assure the provision of a wide range of recreation and leisure time activities for delinquents committed to its custody. These activities should be balanced between individual and team activities.

Commentary

Recreation and leisure activities are vital parts of a residential facility program. There should be many kinds of activities available and juveniles should have freedom of choice. The recreation program should allow the delinquent to engage in activities that he can continue and benefit from when he returns to the community. Because there are such diverse groups of juveniles in residential facilities, considerable planning and development must take place to insure meaningful participation by each person.

A recreation program should include active and sedentary activities, both indoor and outdoor, for teams and individuals. Adequate equipment and supplies should be provided for a comprehensive program. In case of nonsecure facilities, maximum use of recreational facilities—such as swimming pools, parks, bowling lanes, and gymnasiums—in the community should be made.

References

1. *Morales* v. *Turman*, 326 F. Supp. 677 (E.D. Tex. 1971).
2. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: U.S. Government Printing Office, 1973.

Related Standards

The following standards may be applicable in implementing Standard 24.12:

19.7 Right to Refuse Services
19.11 Volunteers

Standard 24.13

Communications

The State agency should encourage and make no undue prohibitions against communications, including visits, phone calls, and letters, between delinquents in its custody and their families or significant others in their lives.

The State agency should not censor mail other than to open envelopes or packages in the presence of the delinquent to inspect for contraband materials, such as drugs or weapons. The State agency should not monitor telephone calls between the delinquent and his family or significant others.

Commentary

This standard recognizes the necessity for and basic right of delinquents to maintain ties with significant others outside the residential program and to do so with a reasonable degree of privacy and a minimum of coercive interference. Opportunity for positive social interaction, both within and outside the facility, should be encouraged. There should be minimal constraints upon visitation, correspondence, and telephone calls between the delinquent and his family or significant others. Furthermore, mail should not be read and censored. Should it become necessary for security reasons to open mail and packages, it should be done in the presence of the delinquent.

References

1. *Morales* v. *Turman*, 364 F. Supp. 166 (E.D. Tex. 1973).

2. *Nelson* v. *Heyne*, 355 F. Supp. 45, 457-58, (N.D. Ind. 1972).

3. *Palmigiano* v. *Travisono*, 317 F. Supp. 776 (D.R.I. 1970).

4. Silbert and Susman. "The Rights of Juvelines Confined in Training Schools" in *Prisoners' Rights Sourcebook*. Herman, 1967.

5. *Wolff* v. *McDonnell*, U.S. Supreme Court, No. 73-679.

Standard 24.14

Work Assignments and Work Release Programs

Work assignments for delinquents in the State agency's facilities should be limited to normal housekeeping and yardkeeping tasks in the living area and work directly related to vocational training to which the delinquent has been assigned. Any other productive work that contributes to the maintenance of the facility should be remunerative. Repetitious, nonfunctional, degrading, or unnecessary tasks should be prohibited as work assignments.

Facilities housing older delinquents of an employable age should provide work release programs.

Wages paid a delinquent should be used for payments of restitution to the victim of the instant offense or for purposes of contributing to the support of the delinquent's family only if so ordered by the family court as part of the disposition.

Commentary

Work for delinquents in custody should be meaningful, constructive, and directly related to a proper vocational training program. Work assignments that are not degrading or unnecessary will often engender a healthier attitude toward work that carries over into community living once the person is released.

A resident should be expected, however, to do necessary housekeeping and yardkeeping tasks if the assignments assist rather than replace regular staff. This is part of the growing-up process and it not unrealistic to require it. Work that has a direct relationship to the maintenance of the facility—painting, plumbing, etc.—should be voluntary and compensated at a wage comparable to what the same work would demand in the community.

Work that is of a public service nature in the community need not be compensated but it should be voluntary.

References

1. California Department of the Youth Authority. *Standards for Juvenile Halls*. Sacramento: State of California Documents Section, 1973.

2. *Morales* v. *Turman*, 326 F. Supp. 677 (E.D. Tex. 1971).

3. National Advisory Commission on Criminal Justice Standards and Goals. *Corrections*. Washington, D.C.: Government Printing Office, 1973.

4. Silbert, James and Susman, Alan. *The Rights of Juveniles Confined in Training Schools*. New York: New York State Training Schools, 1973.

Related Standards

The following standards may be applicable in implementing Standard 24.14:

24.5 Educational and Vocational Training
24.8 Prevocational and Vocational Programs

Standard 24.15

Health, Safety, and Sanitation

All residential facilities in which delinquents committed to the State agency are placed should conform to existing health, safety, and sanitation codes, both in facility structure and program operation. The State agency and other agencies responsible for administering such codes should inspect each facility at least once a year.

Commentary

The ultimate responsibility for sanitation rests with the governmental officials. They must be willing to run residential facilities in the manner that conforms to the same health, safety, and sanitation codes that apply to schools, mental institutions, and hospitals.

Responsibility for standards supervision of residential facilities should rest with the State agency and any other governmental entities that enforce the standards in other public facilities. Through use of the State agency's and other agencies' expertise, standards should be written and a system of regular inspections and enforcement should be instituted. Inspections should be conducted at least once a year.

References

1. American Bar Association, Statewide Jail Standards and Inspection Systems Project. *Survey and Handbook on State Standards and Inspection Legislation for Jails and Juvenile Detention Facilities.* New York: American Bar Association, 1973.

2. California Department of the Youth Authority. *Standards for Juvenile Halls.* Sacramento: State of California Documents Section, 1973.

3. Skoler, Daniel and Loewenstein, Ralph. *The Enforcement of Sanitary and Environmental Codes in Jails and Prisons.* Commission on Correctional Facilities and Services, 1974.

Related Standard

The following standard may be applicable in implementing Standard 24.15:

19.3 Provision of Services

Standard 24.16

Food Services

All delinquents in facilities of the State agency should be provided a nutritionally adequate diet that offers choices and is varied enough to be acceptable to the ethnic and religious groups represented in the facility's population. The measure of adequacy should be the recommended daily dietary allowance established by the Food and Nutritional Board of the National Academy of Sciences' National Research Council.

Commentary

Care and treatment of juveniles in institutions includes a moral responsibility to provide acceptable and nutritious meals. Meals are also important as a morale factor in institutions.

Facilities should have adequate space, a pleasant dining atmosphere and suitable meal hours. The program should select well-accepted food items, plan meals in advance to insure meeting nutritional needs, have an adequate budget, and use standardized recipes. Food should be prepared under sanitary conditions and practices by qualified food service personnel.

Food acceptance is greatly improved when there are choices of menu items. Geographic and ethnic preferences of the institution's population should be reflected in its daily and holiday menus. Use of an advisory committee from the population is often helpful in planning menus to meet food preferences.

Juveniles should be provided with a minimum of three meals per day. Hours of service should be such that there are no periods greater than 13 hours between meals. Modification of meal schedules on weekends and holidays relieves institutional monotony. Snack items served in the evening help to establish a home-like environment and normalize the institutional experience. Food should not be used as a disciplinary tool.

References

1. Agricultural Research Service, U.S. Department of Agriculture. *Food Selection for Good Nutrition in Group Feeding*. Washington, D.C.: Government Printing Office, 1972.

2. Food and Nutrition Board, National Research Council, *Recommended Daily Dietary Allowance*. National Academy of Sciences, 1974.

3. West, Bessie Brooks; Wood, Levelle; and Harger, Virginia. *Food Service in Institutions*. New York: John F. Wiley and Sons, 4th ed., 1965.

Part 6

Planning and Evaluation in the Juvenile Justice System

INTRODUCTION

This section presents recommended standards on the management processes associated with decisions on future use of juvenile justice and delinquency prevention resources. These standards are intended to help States and localities upgrade the quality of planning and evaluation in their juvenile justice and delinquency prevention activities.

Program decisions are often made without proper planning information or objective data on the impact of existing efforts. Effective planning and evaluation tools can help allocate scarce resources more efficiently, and the standards in this section provide a recommended blueprint for State and local action to achieve those purposes.

A delivery mechanism must exist before planning and evaluation can become a reality. Chapter 25, therefore, urges clarification of State and local organizational and funding responsibilities for planning and evaluation.

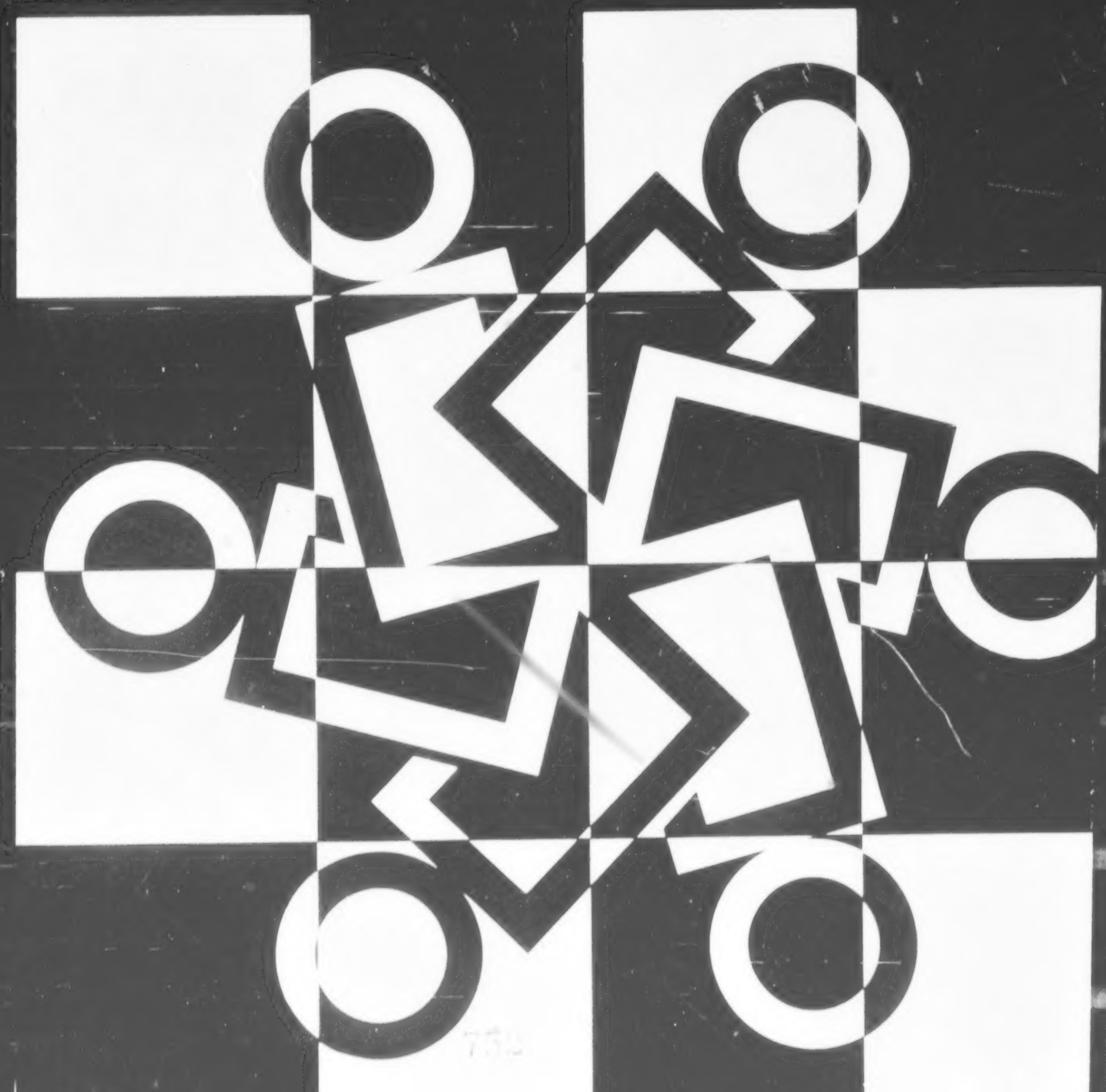
Chapter 26 deals with planning, and recommends a series of logical steps setting forth three fundamental planning elements. These are the what of planning (function), the who of planning (roles), and the how of planning (techniques).

Chapter 27 presents standards for evaluating the performance of the juvenile justice and delinquency prevention system. These standards focus on process, organization, and method. Evaluation becomes much more than the end of a process; it also signals a beginning by providing new information that can be fed into the planning process—information to reallocate scarce resources, or perhaps to try again for a more effective method of preventing delinquency or improving the quality of justice for juveniles and society as a whole.

Evaluation connects the ends of the planning process and is, therefore, as much a beginning as it is an end. It is for this reason that evaluation represents optimism—an attitude that things can be improved, and that new and better methods can be discovered.

The final standards recognize that information about juveniles must be handled responsibly. Security, privacy, and confidentiality are the primary concerns here.

Chapter 25
Implementing a Planning and Evaluation Capability



INTRODUCTION

This chapter presents recommended standards for implementing a planning and evaluation capability at State and local levels of government.

Standard 25.1 urges each State to make decisions and to specify clearly the responsibilities of State and local government in the important areas of planning and evaluation. The particular organizational arrangement and responsibilities of each level of government are intentionally not specified in the standard; these must be constructed on a State-by-State basis, depending on State and local needs.

Standard 25.2 urges each State to adopt legislation to earmark a specific percentage of juvenile justice and delinquency prevention operational monies for planning and evaluation. The exact percentage and method of distribution also is left to the individual States.

Standard 25.3 calls for interjurisdictional and community participation in any State or local decisionmaking bodies concerned with planning and evaluation. The principle here is that public management in a democracy should be heavily influenced by those who are managed. Again, the specific mechanisms for achieving this standard are not specified but left to individual States.

Commentaries on the first three standards recommend specific organizational schemes that may provide guidance to many States. In considering these standards, however, each State and locality should focus on its own purpose and not become bogged down in a debate over applicability of the organizational mechanisms recommended.

Those individuals responsible for formulating standards at the State and local level are encouraged to determine first if responsibility for planning and evaluation is clearly set forth, understood, and operating properly. If not, steps must be taken to specify this responsibility clearly. Next, each State should determine a specific percentage of operating monies to be earmarked for planning and evaluation, along with a mechanism for disbursing these funds. Third, some means should be developed to involve local governments, public and private agencies, and citizens in the decisionmaking process on planning and evaluation. Unless these three decisions are made, no State can implement an adequate planning and evaluation capability, and the remaining standards in this section will be of little practical value.

Finally, Standard 25.4 addresses (1) the data required to support planning and evaluation, and (2) the need for adequate systems to collect these data and convert them into useful information to support decisionmaking. Obviously, there is an inherent conflict between the need for the data called for in this standard, and the need to provide security, privacy, and confidentiality of information about juveniles. Somehow each State and locality must strike a balance between these conflicting needs and rights.

References

1. Angyres, C. "Creating Effective Research Relationships in Organizations." *Human Organization,* Vol. 17, 1959.

2. Glaser, Daniel. *Strategic Criminal Justice Planning,* Crime and Delinquency Issues, National Institute of Mental Health, Center for Studies of Crime and Delinquency, 1975.

3. Mott-McDonald Associates, Inc. *Youth Program Planning Report.* Los Angeles: Los Angeles Regional Criminal Justice Planning Board, April 1975.

4. Nanus, Burt. "A General Model for Criminal Justice Planning." *Journal of Criminal Justice,* Vol. 2, pp. 345–356.

5. U.S. Department of Justice, *Planning and Designing for Juvenile Justice.* Washington, D.C.: U.S. Government Printing Office, August 1972.

Standard 25.1

State and Local Responsibility for Planning and Evaluation

Each State should designate by statute the governmental unit(s) responsible for juvenile justice and delinquency prevention planning and evaluation at the State and local level.

Commentary

Because planning and evaluation are integral parts of management, ideally each public or private agency working with juveniles should have an established system for applying planning and evaluation information to decisionmaking. Not every agency can have a professional planner or evaluator on its staff, nor a sizable budget for consultant help in this area. Furthermore, both planning and evaluation must transcend individual agency needs and relate to multijurisdictional or systemwide concerns. Otherwise, there is no opportunity for common planning to address mutual problems. Worse, the programs developed by one element of the juvenile justice system—police, courts, or corrections—may create problems for other elements. As pointed out by the Advisory Commission on Intergovernmental Relations:

> Even in the most disjointed system, police, prosecution, courts and corrections function in a roughly interdependent fashion, linked as if they are parts of a single process.

All these considerations suggest the need for each State to designate the governmental unit(s) responsible for juvenile justice and delinquency prevention planning and evaluation. A unit will vary from State to State; however, responsibility should reach to the local level, including all agencies related to the juvenile problem.

Designating legislation is required because of the many problems inherent in cross-agency planning and evaluation. Poor cooperation and communication, empire building, narrow perspectives, and real differences in program objectives are among the obstacles to a coordinated planning and evaluation system. Without legislation, these problems might not be overcome.

The purpose of this standard is not to direct who will be responsible for planning and evaluation, but simply to insure that someone is. Designation of the governmental unit(s) responsible locally should result from a careful analysis of the community. Ideally, the organization proposed in Standard 2.2, the Office of Delinquency Prevention Planning, should be assigned this responsibility at the local level.

Other options may be more or less satisfactory, depending on local conditions. For example, a governing board composed of public and private representatives could be created, or some existing multijurisdictional council could be given the charge. On the other hand, the presiding judge of the juvenile or family court, the chief juvenile probation officer, or the county executive may be held responsible. At the State level, the statewide agency proposed to coordinate delinquency prevention programs could also handle planning and evaluation functions.

This standard should not discourage those few agencies developing their own planning and evaluation capability. Rather, their efforts should be developed further and coordinated with a planning and evaluation system that includes all agencies serving juveniles.

Related Standards

The following standards may be applicable in implementing Standard 25.1

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.7 Evaluation
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations
7.2 Planning Commitment
19.2 Creation of a State Agency for Juvenile Intake and Corrections

Standard 25.2

Adequate Operational Funds for Planning and Evaluation

Each State should adopt legislation stipulating that an adequate portion of the funds for juvenile justice and delinquency prevention programs must be devoted to planning and evaluation.

Commentary

Planning and evaluation of juvenile justice and delinquency prevention programs have traditionally been funded primarily by special purpose Federal grants. This standard recommends that adequate monies for planning and evaluation be earmarked from the various funds allocated for operational programs.

Such funding is essential if planning and evaluation are to become integral parts of management at all levels of the juvenile justice and delinquency prevention system. This standard, therefore, must be considered in conjunction with the other standards in this volume that deal with providing adequate resources for program operation and management.

This standard does not designate what percentage of funds should be set aside for planning and evaluation. That amount will vary among States and systems. The mechanism for distributing funds is likewise unspecified. However, recommended mechanisms at the State level are given in Standard 19.2, which proposes a statewide agency for children and youth, and in Standard 2.3, which describes a State coordinating function for delinquency prevention. At the local level, funds can be channeled through the coordinating body and the Office of Delinquency Prevention Planning called for in Standards 2.5 and 2.2

Reference

1. Office of Management and Budget, *1975 Catalogue of Federal Domestic Assistance*. Government Printing Office, 1975.

Related Standards

The following standards may be applicable in implementing Standard 25.2:

2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
7.5 Planning Resource Allocation for Police Juvenile Operations
19.2 Creation of a State Agency for Juvenile Intake and Corrections

Standard 25.3

Interjurisdictional and Community Participation in Decisionmaking Bodies Concerned With Planning and Evaluation

A fair sample of the community and its juvenile-related agencies must participate in the decisions of the governmental body that plans and evaluates juvenile justice and delinquency prevention activities.

Commentary

The philosophy underlying this standard is that public management in a democracy should be heavily influenced by those who are being managed. Elected or appointed officials from various juvenile justice agencies should participate in decisions that affect their operations. Similarly, the general public has the right to be directly represented in decisions that affect the juvenile justice process in their community.

The most appropriate mechanism for insuring such representation will vary among States. Generally, however, agency and community representatives should participate on some form of juvenile justice and delinquency prevention coordinating body. That group should have review *and approval* authority over the disbursement of funds set aside for State and local planning and evaluation activities.

The coordination bodies proposed in Standard 2.5 could logically be assigned these duties in many States. In some cases, one juvenile justice and delinquency prevention coordination body will meet the needs of the entire State. Elsewhere, several of these entities should be established to represent local systems of juvenile justice and delinquency prevention, police, courts, corrections, education, and mental health.

Members of the coordination body should include agency representatives and private citizens with training, experience, or special knowledge about preventing and responding to juvenile delinquency, or citizens skilled in applying planning and evaluation techniques to juvenile-related problems.

One purpose of a coordinating mechanism and its staff should be to serve as a broker and manager in distributing funds to constituent agencies for the purpose of improving planning and evaluation capability. The coordinating body should also encourage interjurisdictional or systemwide planning and evaluation, the results of which should be disseminated throughout the community. In addition, the coordinating body should help insure that local juvenile justice and delinquency prevention agencies make decisions on the basis of objective data.

In most cases, the coordinating body will need to set aside part of its available funds for a staff large enough to serve the unit in carrying out these various responsibilities. One recommended staff structure is set forth in Standard 2.2, Office of Delinquency Prevention Planning. This unit is roughly analogous to the regional planning units and their supervisory boards within the LEAA system. The primary differences are: (1) those involved should be specifically interested and experienced in working with juveniles, and (2) the funds available for this unit's planning and evaluation responsibilities should come out of operational as well as other monies and should not be limited to Federal dollars.

References

1. Office of Juvenile Justice and Delinquency Prevention, *First Comprehensive Plan for Federal Juvenile Delinquency Programs*, U.S. Department of Justice, March 1, 1976.

2. Yates and Yin. *Street Level Government—Assessing Decentralization and Urban Services*. Rand Corporation, October 1974.

Related Standards

The following standards may be applicable in implementing Standard 25.3:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.4 Clarifying Delinquency Prevention Goals
2.2 Office of Delinquency Prevention Planning
2.5 Organizational Capacity to Act
2.7 Youth Participation
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
7.4 Citizen Involvement in Evaluation of Juvenile Operations
18.1 The Court's Relationship With Law Enforcement Agencies
18.2 The Court's Relationship With Probation Services
18.3 The Court's Relationship With Public and Private Social Service Agencies
18.4 The Court's Relationship With the Public
18.5 The Leadership Role of the Family Court Judge
19.2 Creation of a State Agency for Juvenile Intake and Corrections

Standard 25.4

Data Requirements

Data must be made available to support administrative decisions, planning, and evaluation.

Commentary

Planning and evaluation cannot take place without adequate data. Few people would argue with the importance of data in supporting juvenile justice administrative operations in general, and planning and evaluation in particular. In fact, with the availability of computers and the emergence of a group of skilled professions in information processing, there has been a frequently cited information explosion in recent years. Therefore, the intent of this standard is not to argue the value of information; rather, the intent is to specify the kinds of data that must be available to juvenile justice and delinquency prevention planners, evaluators, and administrators.

In general, the data collected for planning and evaluation should result from a careful analysis of elements needed and used in decisionmaking. The data gathered should be objective, of the offender based transaction type, and related to budgeting, in order to yield cost-effectiveness estimates. Examples of specific kinds of data needed for planning and evaluation are given below.

Data to Support Planning

- Incidence of juvenile delinquent acts (number, nature, geocoded location, time, etc.);
- Characteristics of alleged juvenile delinquents (personal data, data on environment, education, family situation, delinquency history, personality and interests;
- Filings affecting juveniles, by type of petition;
- Types of dispositions (place and length of sentence, diversions, releases of various types);
- Workload, by element of the system (numbers served, waiting lists, backlogs, time to process);
- Agencies, by kind of service offered and eligibility criteria;
- System resource allocation (deployment of funds, personnel, and equipment);
- Community demographics (size, ethnic makeup, economic level, growth rates, education, age, etc.);
- Community attitudes and the political environment; and
- National and community societal trends (urbanization, secularization, democratization, family structure).

Data to Support Evaluation

- Data mentioned above as necessary to the planning function are also necessary for evaluation; and

- Performance measures.

Client-Centered Data

- Recidivism (arrests, filings, convictions);
- School (attendance, grades, discipline experience);
- Adjustment indicators (personal, family);
- Service goals established (What did you try to do for the child?);
- Services offered; and
- Youth and family involvement.

Agency-Centered Data

- Workloads;
- Processing/service time; and
- Resources expended—cost per unit of service.

System-Centered Data

- Recidivism by system element and for the system as a whole; and
- Resources expended.

The data elements required for administrative operations are the same as those for planning and evaluation. With access to clearly presented information, juvenile justice administrators are in an excellent position to make effective resource allocation decisions. However, massive statistical reports are typically of little value.

Every agency using information of the type described above should plan for its use *before* information is collected and reported. In larger systems, it will generally be necessary to assign a staff person to synthesize and analyze the data, putting them in a form that will help, not confuse, the decisionmaking process.

References

1. Law Enforcement Assistance Administration. *Quantitative Tools for Criminal Justice Planning*. Washington, D.C.: Government Printing Office, 1975.

2. National Institute of Law Enforcement and Criminal Justice. *Police Crime Analysis Handbook*. Washington, D.C.: Government Printing Office, November 1973.

3. National Institute of Law Enforcement and Criminal Justice. *Monitoring for Criminal Justice Planning Agencies*. Washington, D.C.: Government Printing Office, March 1975.

Related Standards

The following standards may be applicable in implementing Standard 25.4:

1.2 Collecting Delinquency Data
1.7 Evaluation
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
7.2 Planning Commitment
7.3 Evaluation Commitment
25.1 State and Local Responsibility for Planning and Evaluation
26.1 Analyze the Present Situation
26.3 Developing Problem Statements
27.2 Developing or Improving Evaluation Capability
28.4 Computers in the Juvenile Justice System

Chapter 26
Need for Planning

INTRODUCTION

Choices between program alternatives in juvenile justice and delinquency prevention have traditionally been made largely on the basis of luck, intuition, hindsight, and politics. These aids to decisionmaking will no doubt survive. But an additional set of tools and techniques has been generated in recent years under the general rubric of long-range planning.

Future-oriented planning of this type involves a general planning process and the use of such tools as trend extrapolation, morphological modeling, scenarios, cross-impact analysis, systems analysis, collective expert opinion, simulation, and gaming. Unfortunately, long-range planning has not been adequately tested in the juvenile justice system, where systematic planning has been the exception and not the rule.

The standards in this chapter are based on the premise that failure to use all available management tools can no longer be tolerated. With the rapid changes affecting our society, particularly the family, the nature and number of demands on the juvenile justice system are increasing dramatically. To continue in a reactive posture is, therefore, not only unwise but potentially catastrophic.

A formalized, future-oriented planning process will not automatically solve the problems of delinquency reduction. Still, these techniques should be implemented and tested as potentially valuable tools in managing local juvenile justice systems.

Planning, as defined in this chapter, is an orderly, systematic, and continuous process of applying anticipations of the future to current decisionmaking. This definition emphasizes three elements: planning as a process, planning oriented toward the future, and planning focused on present decisionmaking.

Planning as a process implies a consideration of functions, tasks, and roles as opposed to specific plans for program implementation. Procedurally, the following steps are recommended:

1. Analyze the current juvenile justice and delinquency prevention system;
2. Project a desired future system;
3. Determine any gap between current and future systems; and
4. Develop appropriate standards and programs to fill this gap.

Finally, planning focused on the present recognizes that plans for tomorrow's juvenile justice system must be implemented in today's decisionmaking arena. This occurs either as augmentation, extension or reversal of current decisionmaking patterns.

These steps provide a framework for proactively intervening in the delinquency prevention and juvenile justice system of today and tomorrow. Given system change as an objective, three basic elements of planned change will be reflected in the following standards. These elements are the what of planning (function), the who of planning (role), and the how of planning (technique).

The standards in this chapter reflect the minimal planning functions that must be performed by each governmental unit operating a juvenile or family court. These functions include policy formulation and problem analysis, as well as program design, implementation, and evaluation. These five functions, in turn, are based on a planning process model that involves the nine basic steps shown in Figure 26.1.

The activities involved in the preparing for planning are discussed more thoroughly in the preceding chapter, Implementing a Planning and Evaluation Capability. Additional standards presented here provide a step-by-step explanation of the what, who, and how of juvenile justice planning.

References

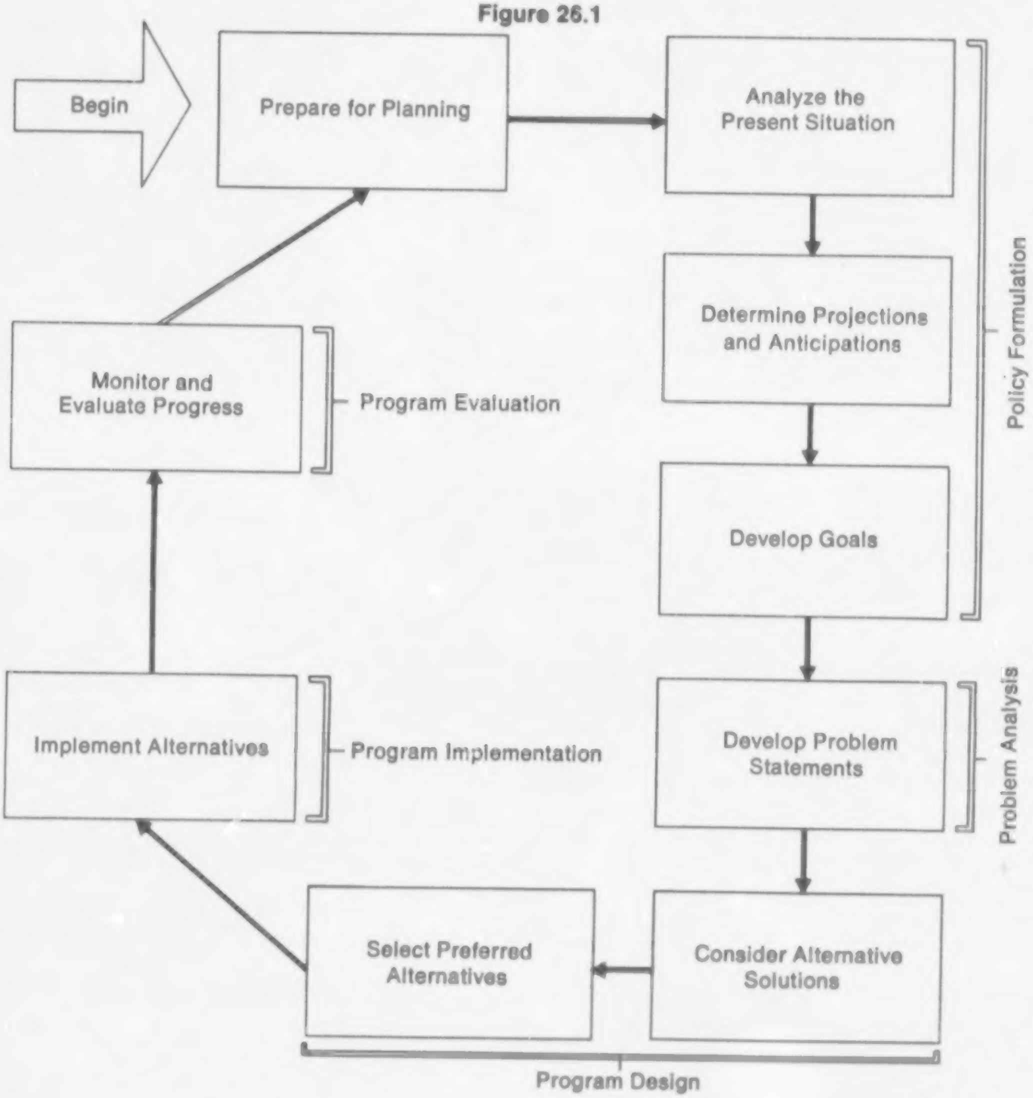
1. Glaser, Daniel. *Strategic Criminal Justice Planning*, Crime and Delinquency Issues, National Institute of Mental Health, Center for Studies of Crime and Delinquency, 1975.

2. Mott-McDonald Associates, Inc. *Youth Program Planning Report*. Los Angeles: Los Angeles Regional Criminal Justice Planning Board, April 1975.

3. Nanus, Burt. "A General Model for Criminal Justice Planning." *Journal of Criminal Justice*, Vol. 2, pp. 345–356.

4. U.S. Department of Justice. *Planning and Designing for Juvenile Justice*. Washington, D.C.: Government Printing Office, August 1972.

Figure 26.1


Begin
Prepare for Planning
Analyze the Present Situation
Determine Projections and Anticipations
Develop Goals
Policy Formulation
Develop Problem Statements
Problem Analysis
Consider Alternative Solutions
Select Preferred Alternatives
Program Design
Implement Alternatives
Program Implementation
Monitor and Evaluate Progress
Program Evaluation

Standard 26.1

Analyze the Present Situation

Each governmental unit with responsibility for juvenile justice and delinquency prevention planning should complete a detailed analysis of the community's delinquency problem and current efforts to control delinquency.

Commentary

After preparing for planning, the first question to be asked and answered in the planning process is: Where are we? The answers will provide the framework for setting goals, defining problems, and determining methods to attain goals. The question, "Where are we?" requires an analysis of the present situation. This analysis will help point out existing approaches to curbing juvenile delinquency in the community. Further, the analysis will help identify areas of needed change and can broaden the range of inputs into the delinquency prevention and control system (particularly inputs from service recipients). At the same time, the analysis can function as a method of conveying information from the juvenile justice system to the general community, thus creating feedback to make the system more responsive to community needs.

There are many ways this analysis can be conducted, but the focus should be on at least two main areas: the nature of the juvenile justice problem in the community, and the resources available to deal with juvenile delinquency.

Each of these major categories may be further subdivided. It is not enough to deal only with the measurable indices; officials also must examine the perceptions about juvenile justice that prevail within the community and the service delivery system.

To describe the nature of juvenile justice, it will be necessary to collect a variety of data, much of which will be either unavailable or unusable in its present form. Therefore, the data collection process will require significant amounts of time. The process also will indicate the organizational perception of juvenile justice, inasmuch as readily available data will reflect those areas that the organization maintaining the data believes to be important.

Specific information needed for the analysis includes demographic statistics on the juvenile population. Such figures are found in census data; data on the number and characteristics of juveniles handled both formally and informally by the juvenile justice system; and related information, such as school dropout and truancy rates, the incidence of unemployment among juveniles and similar social indices. (See Standard 19.4 for more detail.)

Care must be taken to insure that the data collected present an accurate picture of the current and projected delinquency problem. Official statistics available to operating agencies are frequently intended for purposes other than planning and thus may reflect only selected aspects of a problem. For example, data on counseling, diversion, and other informal responses to juvenile delinquency may not be obtainable from official statistics. In that case, efforts should be made to use other sources to identify and report on these informal responses.

One particularly effective tool for conducting this analysis is the systems rate method. This technique uses a description of the various steps in the juvenile justice system, from the point of the initial delinquent act to final discharge of an individual from the system. All decision points are located, and the range of possible decisions is identified. Data are collected to reflect what happens at each of these decision points, in order to determine how often each option is exercised. Thus, a fairly complete picture of the system's actual functioning can be developed.

Also important in analyzing the present juvenile justice situation is the identification of community perspectives. Efforts should be made, through surveys and other similar techniques, to ascertain the impressions that both adult and juvenile have of the delinquency problem. Although the community may be misinformed, its attitudes play an important role in defining both the scope of delinquency and the nature of organizational attempts to suppress it.

The agencies of the juvenile justice system must also be identified. Information will be needed on the structure and operating characteristics of service agencies (such as costs, staffing patterns, and facilities), and on the type of service they provide and the clientele they serve.

Efforts should also be made to identify those community-based private organizations that may not be a part of the formal service delivery system, but do address some portion of juvenile justice or delinquency prevention. A resources inventory can thus be compiled to reflect the range of services available to the system. If comprehensive and properly prepared, this inventory may have the side benefit of identifying resources not previously known to or used by the formal system. The inventory will also serve to point out gaps in service delivery.

An analysis of the type described above can result in an understanding of the extent and nature of the local delinquency problem. The analysis will also identify community attitudes and organizational response to the problem. When this information is projected into the future through techniques such as trend analysis, the result will be a base for developing goals and implementation plans.

References

1. Nanus, Burt. "A General Model for Criminal Justice Planning." *Journal of Criminal Justice*, Vol. 2, pp. 345–356.

2. National Council of Juvenile Court Judges. *Computer Applications in the Juvenile Justice System.* Reno, Nev.: National Council of Juvenile Court Judges, 1974.

Related Standards

The following standards may be applicable in implementing Standard 26.1:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.3 Profiling the Nature of the Delinquency Problem
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
4.1 Police Policy as an Expression of Community Standards
6.1 Participation in Community Planning Organizations
7.2 Planning Commitment
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
25.1 State and Local Responsibility for Planning and Evaluation
27.1 Setting Evaluation Goals and Developing an Evaluation Strategy

Standard 26.2

Develop Goals

Each governmental unit responsible for juvenile justice and delinquency prevention should develop a 5-year plan of community goals aimed at juvenile delinquency prevention and/or system improvements goals for their community.

Commentary

Once the present situation has been analyzed and the implications of projecting that situation into the future have been reviewed, the next step is to develop goals. In the context of future-oriented planning, a goal is a statement of the desired condition of the system at some fixed point in the future. The goals should express the desired outcome of specific system improvement actions that will be undertaken as a result of the gap that may exist between the projected situation and the desired situation. Because a statement of goals provides a focus for all subsequent planning activities, the objectives must also be clearly defined, and the goals must reflect the desires of the community, stated in unambiguous terms, realistic, and flexible.

To meet the first of these criteria, the governmental planning unit should obtain the greatest possible input from community representatives, particularly those with divergent opinions. As for the second criterion, the goal statements should be as explicit as possible, in order to avoid contradictory interpretation. The latter may result from a wide variety of views on the nature and causes of juvenile delinquency and the kinds of actions needed to deal with the problem. These views reflect a variety of differing, and sometimes contradictory, assumptions about juvenile behavior and about the responses of the system to that behavior. To avoid any conflict that may arise from these differing assumptions, efforts should be made to state these underlying assumptions at the start of the goal-setting process.

The tasks of obtaining community input and explaining underlying assumptions will present some difficulties because people are not accustomed to thinking in terms of specific goals. One particularly useful tool for defining goals addresses these two tasks. That tool is the Delphi Method, developed by the RAND Corporation for the U.S. Department of Defense. Through this method a series of questionnaires is distributed to individuals in the planning process, thus providing a vehicle for obtaining a maximum number of statements of desired goals.

By repeating the questionnaire process, asking for more specificity from the participants on each round, the goal statements can be made as clear as possible. Since no face-to-face bargaining takes place, participant consensus on the goals may be reached without encountering the problem of one participant or group dominating the decision.

The third goal development criterion relates to measurement. As the planning process proceeds through program implementation and evaluation, it is necessary to determine what progress is being made toward attaining goals. Thus goal statements should lend themselves to measurement and the desired level of improvement should be indicated where possible.

A goal calling simply for reducing juvenile delinquency does not indicate how delinquency is to be defined, nor the level of reduction necessary to have meaningful impact. However, a reduction of .1 percent over five years could be considered as having met the goal. On the other hand, a statement that calls for reducing commitments to juvenile detention facilities by 5 percent per year for each of the next 5 years provides a clear statement of expectations and allows for measurement of progress.

Selection of a desired level of improvement is somewhat arbitrary given the state of the art in social planning. However, this estimate of a success level is necessary to justify expenditures.

The fourth criterion in setting goals is that they be realistic. Attention must be paid to the possibility or probability of attaining the goal. Political realities, countertrends, history, the nature of the problem, and the resources available are among many factors affecting the probability of success in achieving objectives. Unrealistic goals are frustrating to those responsible for implementing them. Such goals also stand in the way of effective monitoring and evaluation.

The time frame involved is also an important variable in determining how realistic goals are. The most appropriate schedule is a debatable issue. Obviously, the shorter the time, the more confidence one will have in the reliability of predictions. Too short a time frame, however, will not allow programs to be defined, implemented and evaluated. Consequently, a balance must be struck between these two opposing considerations. Many governmental units are moving toward the use of a 5-year period in forecasting their budgetary needs and resources. This time frame is short enough to allow for some degree of confidence in the validity of the predictions, and yet is sufficiently long to smooth out the effects of minor problems in the organization. Because the implementation of juvenile justice plans will take place within a governmental context and thus will require some relationship to budgetary cycles, the selection of the 5-year period is advisable.

Finally, the goal-setting process should not be static. As conditions in a community change over time, the goals established at the outset of the planning process may require periodic modification to reflect the new circumstances. Information obtained from the operation and evaluation of programs should be fed back into the goal-setting process to provide for a dynamic, responsive planning system.

References

1. Glaser, Daniel. *Strategic Criminal Justice Planning*, Crime and Delinquency Issues, National Institute of Mental Health, Center for Studies of Crime and Delinquency, 1975.

2. Martino, Joseph. *Technological Forecasting for Decision Making*, Chapter 3, "DELPHI," New York. American Elsevier Publishing Company, Inc., 1972.

Related Standards

The following standards may be applicable in implementing Standard 26.2:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.4 Clarifying Delinquency Prevention Goals
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.6 Achieving Coordination and Cooperation in Delinquency Prevention Programs
2.7 Youth Participation
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations
7.2 Planning Commitment
18.5 The Leadership Role of the Family Court Judge
25.1 State and Local Responsibility for Planning and Evaluation
26.1 Analyze the Present Situation
27.1 Setting Evaluation Goals and Developing an Evaluation Strategy

Standard 26.3

Developing Problem Statements

Each governmental unit responsible for juvenile justice and delinquency prevention planning should identify the gap between its goals and its present accomplishments. Specific problem statements should then be developed to explain that gap. These statements should provide a basis for program and project development.

Commentary

Once the goals of the juvenile justice system have been defined, it is necessary to develop problem statements. Where the systems present achievements diverge from the desired goals, problem areas should be identified; these can serve as guidelines for future program development by indicating specifically how and why the present situation diverges from the desired goal.

Constructing these problem statements may be one of the more difficult and useful steps in the entire planning process, for the task requires a clear understanding of the interactions between the various elements of the juvenile justice system. As specific trouble spots in the existing system are identified, the planning unit must also specify the nature of the changes required and the effects of these changes on other components of the system. Experience shows that solutions in one area can create problems in other parts of the system.

The techniques of systems analysis and systems rates, which focus attention on the interaction between system elements, will be especially helpful in identifying points in the juvenile justice process that will be most responsive or resistant to change. Such analysis will also indicate what effect a change in one part of the system will have elsewhere.

The problem statements that result from the comparison process recommended by this standard should specifically define the imbalance between the desired and existing states, in order to provide guidance to the program development process. The specific activities needed to move the system in the desired direction should become apparent. Put another way, problem statements should indicate the organizational changes desired to further goals, and they should provide the means of focusing on specific target populations or patterns of behavior to be addressed by particular programs.

References

1. Granga, C. H. "The Hierarchy of Objectives." *Harvard Business Review*, Vol. 42, 1964.

2. Klein, Kobrin, McEachern & Sigurdson. "Systems Rates: An Approach to Comprehensive Crim-

inal Justice Planning." *Crime and Delinquency*, Vol. 17, October 1971.

Related Standards

The following standards may be applicable in implementing Standard 26.3:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.2 Collecting Delinquency Data
1.3 Profiling the Nature of the Delinquency Problem
1.7 Evaluation
4.1 Police Policy as an Expression of Community Standards
7.1 Organization of Police Juvenile Operations
7.2 Planning Commitment
18.5 The Leadership Role of the Family Court Judge
25.4 Data Requirements
27.1 Setting Evaluation Goals and Developing an Evaluation Strategy

Standard 26.4

Program Development

Each governmental unit responsible for juvenile justice and delinquency prevention planning should develop programs on the basis of problems and goals statements.

Commentary

The problem statements recommended in Standard 26.3 should provide a clear indication of the kinds of programs needed to improve the operation of the juvenile justice system and to accomplish its goals. Thus, the next step in the planning process is to interact directly with the system's operating elements to develop programs by considering alternative solutions and selecting the preferred one.

Program development plans should identify specific goals, the target population involved, and the program's relation to overall system goals. Additional factors to include in the program design are the precise methods to be used in dealing with the target population, the costs of those methods, alternative approaches, the assumptions upon which selection of the methods was based, and the means for measuring program outcomes in terms of goals.

The organization or administrator charged with selecting from among a variety of possible programs for eventual implementation will require the preceding information about all programs under consideration, to insure that alternatives will be compared on an equal basis. Efforts should therefore be made to provide as much specificity in each of these areas as possible.

The relative importance of the target population to the overall population and problem should be thoroughly described. Also, the ways in which the selected methodology will deal with the target population should be discussed. Program development personnel should give specific attention to assumptions about the relationship between the causes of behavior in the target population and the ways the specific methodology will deal with those causes. A review of alternative methodologies should provide information on the operation of these alternatives in other areas. Detailed explanations of why the chosen method was selected should also be given. Finally, program developers should be explicit about the means by which the success or failure of the program can be determined. These measures of outcome should be clearly related to those developed as part of the goal-setting process. The methods by which measurement information will be collected and analyzed also should be described at this point, since it is vital that these measurement criteria be an integral part of the program from the outset.

Program development statements also should focus on the question of how program implementation fits into the overall operation of the organization responsible for that implementation. This means detailing the organizational units that will be affected or involved, describing how these units will interact as part of the program, and being explicit about the administrative and fiscal structure of the organization.

References

1. Cushman, Robert C. "LEAA's Pilot Cities—A Model for Criminal Justice Research and Demonstration," *San Diego Law Review*, Vol. 9, Issue #4, June 1972.

2. Glaser, E. M. and Taylor, S. H. "Factors Influencing the Success of Applied Research," *American Psychologist*, February 1973.

3. Hoffman, Mark. "Criminal Justice Planning," American Society of Planning Officials, *Planning Advisory Report No. 276*, January 1976.

4. Miller, Robert W. "How to Plan and Control with PERT," *Harvard Business Review*, March-April 1962.

Related Standards

The following standards may be applicable in implementing Standard 26.4:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.4 Clarifying Delinquency Prevention Goals
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.5 Organizational Capacity to Act
2.8 Financing Delinquency Prevention Programs
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation
6.1 Participation in Community Planning Organizations
6.2 Developing and Maintaining Relationships With Other Juvenile Justice Agencies
7.1 Organization of Police Juvenile Operations
7.2 Planning Commitment
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
26.2 Develop Goals

Standard 26.5

Program Implementation

Each governmental unit responsible for juvenile justice and delinquency prevention planning should develop a specific program implementation plan.

Commentary

Programs designed are not programs implemented. Therefore, an implementation plan is a necessary component of any program. This plan should provide information to both policymakers and program managers on all actions necessary to initiate the program.

The information required should indicate how a program will fit into the budgetary cycle of the administering organization. The data should spell out the funding source, including the administrative procedures needed to acquire and disburse those funds. Accounting and audit requirements should be specified, along with the activities, resources, and time needed to select and train program staff and to obtain operating facilities.

Projections and allowances should be made of the expected fluctuations in program operations over time. For example, if the program will be handling more clients during certain periods, this fluctuation must be considered in planning for fund expenditure and staffing patterns.

Those developing an implementation plan should estimate organizational response to initiation of the program, including identification of the changes in organizational behavior that will be associated with the effort. Expected points of support or opposition to the program from within the implementing organization and from the larger juvenile justice system should be assessed, and efforts should be made to either reduce or eliminate the opposition or to isolate the project in such a way as to minimize disruption.

Specific mechanisms must be established to provide a regular flow of information, both within the program and from the program to the organization's policymaking authorities. This information system should provide a means to report regularly on program operations, identifying the problems or deficiencies noted and indicating progress toward meeting goals.

The last step in the planning process is evaluation. Data on program impact are fed back into the planning cycle and used to modify ongoing programs and develop future plans.

Reference

1. Office of Management and Budget. *1975 Catalog of Federal Domestic Assistance*. Washington, D.C.: Government Printing Office, 1975.

Related Standards

The following standards may be applicable in implementing Standard 26.5:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.5 Organizational Capacity to Act
4.1 Police Policy as an Expression of Community Standards
4.6 Participation in Policy Formulation
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
25.1 State and Local Responsibility for Planning and Evaluation

Chapter 27
Need for Evaluation

INTRODUCTION

Definitions

Evaluation has been termed an elastic word because of its many connotations. For purposes of this chapter, evaluation is defined in terms of two levels. At the first level, standardized performance measures (e.g., recidivism, diversion rates, costs-per-unit of service) are collected and analyzed. On the basis of these performance measures, program results are compared with some relative or absolute standard of expected performance. All of this occurs routinely, without sophisticated research design or the continuing involvement of social scientists. In the standards that follow, evaluation at this level will be called monitoring.

At a more intense level, and building on the first, is a form of evaluation requiring the assistance of social scientists. Standardized performance measures are again used, but this time in the context of a research design. Additional data elements are also collected and analyzed so that evaluators can understand as much as possible about the system or program being examined. The intent of evaluation at the second level is to find out not only what works but also why it works. This level of assessment will be identified as evaluation research.

The term evaluation will also appear in a generic sense when referring to issues or concepts that relate to both monitoring and evaluation research.

What Evaluation Can Do

Whether it involves monitoring or research, the business of evaluation is to provide objective data about program effectiveness. Administrators faced with budget decisions understand the value of objective information that will help them allocate scarce resources most effectively. This is equally true for the director of a small-scale project or the administrator of an entire system of juvenile justice and delinquency prevention. Evaluation can supply the critical information needed for effective program planning, showing what is being gained for the resources expended and the relative merits of program alternatives.

The potential advantages outlined above stem from the results of evaluation. However, simply undertaking evaluations can have positive impact. When an evaluation is underway, performance tends to improve, objectives are more carefully defined, and management information is more likely to be available. Beyond that, the presence of evaluation research can be an incentive to try innovative solutions to problems. The fact that a program can and will be carefully evaluated makes social experimentation more feasible politically. If the change in the system is effective, those responsible will have the results to support their position. If results are negative, program direction can be changed. The credit will go to those wise enough to measure the results of their efforts and to change course when indicated.

Evaluation Limitations

With all its potential advantages, evaluation is not a panacea for juvenile justice management, and those who will be involved in such an effort should be aware of a number of factors. For one thing, evaluation is expensive in terms of money, time, and commitment. It is usually difficult, and sometimes impossible, to produce evaluation results in time to meet the needs of administrators.

Secondly, juvenile justice and delinquency prevention programs operate in a political environment. They involve the reputation of legislative sponsors, the careers of administrators, and the jobs of people affected by the program or system being evaluated. As a result, the objective, systematic efforts of evaluation are sometimes resisted. This resistance can be manifested in any number of ways and can include a refusal to accept evaluation findings.

Evaluators themselves, and the state of their art, are responsible for an additional constraint on the impact of evaluation. Many studies to date have been of poor quality. This has been the result of both incompetent evaluators and lack of adequate research designs for some of the complex questions addressed.

A final constraint is the disorganized way in which evaluations have been implemented within and between State and local juvenile justice systems. Evaluations have typically been delivered on a project-by-project basis with original, and often different, data collection, research design, performance measures, and operational definitions in each case. As a result, cross-agency and cross-evaluation comparisons of results are difficult. Evaluations have also typically concentrated on one segment of the system (police, courts, or corrections) without considering program impact on other areas. This has made it impossible in most instances to adequately assess the effectiveness of a total system of juvenile justice and delinquency prevention.

Evaluation Standards

With the limitations of evaluation in mind, it could be supposed that an effective evaluation is impossible to develop. To the contrary, the standards in this chapter assume that evaluation techniques are both necessary and feasible, and the commentary to each standard provides suggestions on how limitations and constraints can be minimized. Compliance with all standards will result in an evaluation program that provides management with much-needed information on program and system effectiveness.

The standards in this section have been organized around a recommended general process for developing or improving the evaluation capability. The first step in that process is to define the goals and strategies of an evaluation system (Standard 27.1). The next step is to assess current procedures against the established goals. Comparing present capability with the desired system should lead to an understanding of the direction development efforts must take (Standard 27.2). The remaining two standards define the general characteristics of the final evaluation system. They describe both a standardized monitoring system (Standard 27.3) and a means of developing an evaluation research capability (Standard 27.4). Taken together, these two standards provide a recommended process and method for (1) evaluating selected juvenile justice and delinquency prevention systems, and (2) conducting in-depth evaluations of the programs and projects administered by and within that system.

References

1. Adams, Stuart. *Evaluative Research in Corrections.* Washington, D.C.: Government Printing Office, 1975 (U.S. Dept. of Justice).

2. Dixon, et al. *Juvenile Delinquency Prevention Programs, an Evaluation of Policy Related Research on the Effectiveness of Prevention Programs.* Nashville, Tenn.: Office of Educational Services, 1975.

3. Waller, et al. *Monitoring for Criminal Justice Planning Agencies.* Washington, D.C.: Government Printing Office, 1975 (U.S. Dept. of Justice).

Standard 27.1

Setting Evaluation Goals and Developing an Evaluation Strategy

Goals for an evaluation system should be developed prior to creating or improving an evaluation capability. These goals should be based on an analysis of local evaluation needs.

Commentary

To avoid wasting or misdirecting resources, evaluation goals and strategies should be developed in advance of any investment to initiate or improve evaluation capability. The goals will specify *what* the evaluation system is to accomplish; the strategy will specify *how* the goals will be met; and, in a general sense, how the evaluation system will operate.

One of the important steps in this process is to define the information needs of decisionmakers—i.e., to identify the kinds of questions that evaluation should answer. Such definition can be adequately developed only after one determines the facts and information elements currently used in decisionmaking. It is critical to know what information decisionmakers used or would use were it available. The next step is to rank the information required according to its utility. Goals of the evaluation system can then be developed around priority information needs.

Examples of general issues that need to be addressed during the goal-setting and strategy-building process are presented below:

What to Collect

Answers to the "what-to-collect" question point out the directions the evaluation system must take. As stated earlier, answers should come from an analysis of current information requirements in local decisionmaking. However, it is likely that certain basic information elements will generally be required by all systems. For example, every juvenile justice and delinquency prevention system should have records showing how many juveniles need various kinds of service. The system should have answers to such questions as:

1. How many juveniles are at risk in the jurisdiction?
2. How many come to the attention of the system?
3. What percentage of those is diverted?
4. What percentage receives each of the dispositional alternatives available?
5. What are the characteristics and needs of clients in each group?

In general, the size and characteristics of the total population experiencing various disposition alternatives should be known. This information is needed at each decision point as juveniles move through the juvenile justice system.

It is also essential to collect data on performance. As detailed in Standard 27.3, performance indicators should be available on client improvement, agency or program efficiency, and overall system performance. Each system of juvenile justice and delinquency prevention should indicate program improvement rates, costs-per-unit of service, and other factors that measure both system and program performance. In short, the evaluation system should have the capability of providing information about performance at three organizational levels—individual programs, combinations of programs, and the entire system.

How to Collect Evaluation Data

Information can be gathered routinely on an ongoing basis or in a one-time sample. Data also can be collected either by line workers or specialists in evaluation. A computerized system can be developed or a manual system may suffice. Furthermore, data can be collected in a monitoring format or in the context of research designs involving control or comparison groups.

Decisions about specific plans for collecting and reporting data would be premature at this stage, but all available options should be considered. Special needs or constraints existing in the local system may make certain alternatives clearly more or less acceptable than others.

Who Collects Evaluation Data

Options typically revolve around the use of line workers or specialists. Can an effective system be developed that is operated inhouse with line workers collecting data and sending it directly to management for analysis and action? Or is a special evaluation unit needed? If the latter alternative is selected, should the unit represent one agency or several? Should evaluation be provided by a private independent organization? The ideal for any particular jurisdiction may be some combination of these alternatives. Again. the purpose during the goal-setting and strategy-building phase should be to develop a general plan that will be responsive to local needs and constraints, rather than to make specific implementation plans.

When to Collect Evaluation Data

The relatively long-term nature of evaluation studies frequently conflicts with short-range information needs. As a result, evaluation information often arrives too late to be of value. Overcoming this problem requires careful planning. Management needs and the characteristics of the evaluation system must be complementary.

Other Concerns

Other factors to be considered during the goal-setting and strategy-building process include the extent of available funding for evaluation, the contributions of various agencies to the evaluation effort, and ways to insure community involvement in the process. However, the primary message of this standard is the importance of defining objectives before attempting to develop or expand evaluation capability. Each juvenile justice and delinquency prevention system should be able to point to a well-articulated and realistic statement of evaluation objectives as the basis of its efforts.

References

1. Brookings Institution. *Evaluation Progress in Criminal Justice: A Report to the Law Enforcement Assistance Administration.* By David T. Stanley with the assistance of Phillip S. Hughes and Susan W. Mull. Washington, 1972.

2. Carter, Robert M. "The Evaluation of Police Programs." *Police Chief,* 38, 1971.

3. Evaluation Policy Task Force. *The Report of the LEAA Evaluation Policy Task Force,* Washington, 1974.

4. Granga, C. H. "The Hierarchy of Objectives." *Harvard Business Review,* 42, 1964.

Related Standards

The following standards may be applicable in implementing Standard 27.1:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.5 Organizational Capacity to Act
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge

Standard 27.2

Developing or Improving Evaluation Capability

Present evaluation processes and products should be reviewed in terms of their utility in reaching evaluation goals. Evaluation capability should then be developed or improved in order to meet evaluation goals.

Commentary

This standard assumes that goals and objectives for the evaluation program have already been developed (see Standard 27.1). The standard recommends that current evaluation procedures be reviewed to identify any weaknesses that must be overcome in order to meet evaluation goals. The gap between what exists and what is needed must be reconciled if evaluation goals are to be achieved. The analysis of current operations should include at least the following factors:

1. The extent to which evaluative information is being used in decisionmaking;
2. The amount and source of funds deployed for evaluation;
3. The types of research methodology in use;
4. The number and background of individuals serving as evaluators.

Once current procedures have been reviewed, evaluation practice can be measured against evaluation goals. Where differences exist between the two, plans should be made for developing or improving evaluation capability. The exact nature of this development effort will depend on local needs and conditions, although the guidelines that follow should generally be considered.

Staff Skills

An evaluation monitoring system can be implemented with minimal help from trained social scientists. Consultants may be needed in the development stage and for training or other short-term needs, but ongoing implementation does not normally require extensive specialized expertise.

Evaluation research, on the other hand, can be ineffective or even disastrous in the hands of unqualified personnel. At a minimum, anyone conducting evaluation research without the direct supervision of a qualified evaluator should have a master's degree in social science from an accredited college or university, plus at least 2 years of related experience under supervision. Graduate course work should include research design, experimental methodology, survey research, and statistics. Statistical skills should include knowledge of both parametric models (such as analysis of variance and t-test) and nonparametric models (e.g., chi-square). In addition, because of the complexity of behavioral research, evaluators should be able to use such models as multiple regression analysis and multivariate analysis of variance and factor analysis. Evaluators also should understand cost-benefit analysis, systems analysis, planning procedures, and interviewing techniques. Finally, evaluators also must be able to communicate clearly, both verbally and in writing.

An understanding of the juvenile justice and delinquency prevention process is also essential. That understanding could perhaps be developed once an evaluator is hired, but it is unusual for an individual to have the time to develop the research background needed in conducting evaluations. Therefore, experienced juvenile justice workers without the required research training should not be automatically placed in evaluation positions on the unlikely premise that they will pick up the required technical skills later.

Sources of Services

Although some juvenile justice systems may not be large enough to support a full-time evaluator, this standard recommends that all systems involved in evaluation research have access to the services of a professional evaluator. In some cases, this service may be provided by a larger agency. For example, a State agency may service a local county-run juvenile justice system. Or several small systems may pool their resources to obtain evaluation expertise.

Short-term needs (e.g., help with establishing data collection procedures, developing a management monitoring system or reviewing draft research designs and reports) might best be provided by consultants operating outside of the system. Outside consultants can also be valuable in conducting special-need, in-depth evaluation research.

The use of consultants raises the question of whether an evaluator should be independent or an employee of the agency or system being evaluated. On the one hand, inhouse evaluators usually have a better understanding of the system and are less expensive. On the other hand, such evaluators may be more biased than their independent counterparts. In addition, evaluation research needs are sporadic to some extent. Thus it is difficult to keep inhouse evaluators on board continuously to meet all needs. A common solution in larger systems is to have both inhouse and independent evaluators. The former handle most ongoing evaluation needs, and independents are used in special situations.

Organization

Those who provide technical expertise in evaluation research should interact directly with high-level juvenile justice administrators, despite the many demands on managers and their time. Few of these concerns have more potential value than evaluation.

The top administrator in an agency need not directly supervise the work of evaluators. But there must be frequent opportunities for two-way information exchange so evaluators will clearly understand the needs of management, and management will comprehend and use evaluation findings. Also, the evaluation function should be organizationally tied to the planning function, as these two functions are interdependent and closely related.

Level of Evaluation

Each jurisdiction wishing to improve its evaluation capability must decide how much monitoring or evaluation research should be emphasized. The commentaries to Standards 27.3 and 27.4 provide an expanded discussion of the issues involved in both monitoring and evaluation research. These standards call for developing a monitoring system as the basic element of the general evaluation process. Research can then become an extension of the monitoring system. Research should be more limited than monitoring in application, but all juvenile justice systems should commit resources on a continuing basis to evaluation research. The exact best mix of the two evaluation strategies for any given application will depend on local conditions.

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Related Standards

The following standards may be applicable in implementing Standard 27.2:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.7 Evaluation
2.1 The Local Role in Delinquency Prevention
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.4 The Federal Role in Delinquency Prevention
2.5 Organizational Capacity to Act
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
26.1 Analyze the Present Situation
26.2 Develop Goals
26.3 Developing Problem Statements

Standard 27.3

Developing a Standardized Evaluation System

Each governmental unit having responsibility for an evaluation system should develop a standardized monitoring system with the capability of assessing juvenile justice and delinquency prevention activities within its jurisdiction.

Commentary

Administrative statistics on program efficiency and impact are critical to effective management, though these data are seldom available to juvenile justice managers. This standard argues strongly in favor of a standardized monitoring program for each local system of juvenile justice and delinquency prevention. Administrators should routinely have information available on the extent to which programs are reaching their goals.

The monitoring program envisioned involves three basic elements. First, program or system goals are stated in measurable, operationally defined terms. Second, performance indicators are made available to address program objectives. Finally, procedures are established for routine comparisons between program goals and the actual situation, as determined by the performance indicators.

As a case in point, assume that an agency has initiated a parent training project to prevent delinquency. The objectives of the project are:

1. To train 100 sets of parents;
2. To provide this service at a cost of $200 per family;
3. To reduce juvenile arrests in a target area by 30 percent;
4. To reduce juvenile detention admissions in a particular area by 15 percent; and
5. To reduce total arrests in the system by 15 percent and total detention by 7.5 percent.

Under a monitoring program of the type recommended, data would be available describing actual performance with respect to each project objective. Since the objectives are measurable and indicate the degree of desired outcome, it is possible to obtain an estimate of project impact by comparing actual results with project objectives. If juvenile arrests for the target area are actually up, action may be needed. If arrests are down in terms of the amount expected, the results indicate that the program is living up to expectations.

For the monitoring program to work, there must be a set of performance measures and definitions that are standardized within and across agencies. The following measures and definitions (see Table 27.1) are basic examples of the kind of information that should be collected in a juvenile justice monitoring system.

Table 27.1.

Performance Measures	Definitions
Client Improvement	
Recidivism	Findings against juveniles for delinquent acts while under system supervision or within 3 years of release from supervision; or technical violations of court dispositions (to be counted separately).
Educational Development	Pre-post scores on a standard achievement test, related to pre-post change expected (test norms for age group).
Agency/Program Performance	
Time to Disposition	Average number of days from arrest to court disposition.
Diversion Rate	Number diverted at pretrial stage divided by number detained at pretrial stage.
Cost Per Unit of Service	Per-hour cost of program for direct service to juveniles.
System Performance	
Incidence of Juvenile Arrests	Total crime reported (by police and victims), multiplied by the percentage of juveniles among total arrests (adult and juvenile).
Overall Recidivism Rate	Recidivism rate combined for all programs.

Each political subdivision responsible for a planning and evaluation system should begin immediately to develop performance measures that have standard definitions and are responsive to local needs. This effort should occur subsequent to the goal-setting and development process outlined in preceding standards. In fact, the effort may be carried out by the same organizational authority (task force, planning committee, etc.) involved in the general development work recommended by these standards.

Following a definition of performance measures, procedures should be established for the routine collection and reporting of monitoring data. As such procedures are established, it will become obvious that some of the data required are more difficult to obtain than others. A measure of recidivism, for example, though an important performance measure, requires tracking juveniles through each local agency involved. It is possible to do so routinely, even with a manual records system. But this task requires commitment and a coordinated effort on the part of each local juvenile justice agency.

Establishing the monitoring program recommended here would be a major achievement for the juvenile justice system. The program would be a powerful management tool in its own right and it would provide the basis for evaluation research in those cases where more careful study of impact is warranted.

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Related Standards

The following standards may be applicable in implementing Standard 27.3:

1.1 Developing a Comprehensive Delinquency Prevention Plan
1.7 Evaluation
2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
4.1 Police Policy as an Expression of Community Standards
6.1 Participation in Community Planning Organizations
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
25.4 Data Requirements
28.2 Access to Juvenile Records
28.4 Computers in the Juvenile Justice System

Standard 27.4

Developing an Evaluation Research Capability

In order to evaluate selected projects, programs or systems in depth, each governmental unit with a responsibility for conducting an evaluation program should develop the capability to conduct or sponsor evaluation research.

Commentary

Some projects, programs, or systems merit more indepth evaluation than is provided by a standard monitoring system. It may be necessary to test additional variables or apply experimental methodology to determine causal relationships between treatment and outcome. When extended evaluation is needed, a professional evaluator or evaluation staff should create and implement research designs. Although additional data are likely to be required, the information collected as part of the standard monitoring system should reduce considerably the amount of time and effort required to conduct evaluation research.

Selecting Programs for Evaluation Research. The cost and complexities of evaluation research make it inappropriate as a means of evaluating all programs. Therefore, each juvenile justice system should develop a set of procedures and criteria for determining which programs merit expanded evaluation. Typical criteria should include the following:

1. There is a likelihood that evaluation information will influence program decisions;
2. Program effectiveness is seriously questioned;
3. Substantial resources are committed to the program;
4. Community concern has been manifest;
5. The approach is new or untried;
6. Evaluation data do not presently exist; and
7. The program is amenable to experimental design.

Once criteria are established, programs should be selected on a continuing basis for evaluation research. The actual implementation can be the responsibility of either inhouse evaluators or consultants. The staffing and organizational considerations mentioned in the commentary to Standard 27.2 should be noted in selecting evaluators and in the general implementation of evaluation research.

Program Experimentation. Evaluation research is of particular value in conjunction with the pilot-testing of experimental program interventions. Programs with a potential for large-scale implementation and introduced for the first time should be initiated on a limited scale and subjected to evaluation research. This is true for all such programs, no matter what the funding source, for wise resource allocation depends on an assurance of a program's effectiveness prior to large-scale application. There are also ethical considerations involved in using a program that has an unknown potential to help. Although the consequences of error are perhaps not as great, the situation is analogous to treating hospitalized patients with new and untested drugs. Several controlled evaluation studies in the juvenile justice area have found that, contrary to expectations, the programs evaluated were doing more damage than good.

There are also political advantages to starting small. Those with investments in the approach (managers and legislators) are less subject to political repercussions if the program fails. Yet they can claim recognition if it succeeds. Moreover, small-scale programs allow administrators and legislators to take the reasonable stand that they are doing something about a problem, but in a careful, calculated way. If the new programs do not work, this fact will be known and other alternatives can be introduced with minimum loss to taxpayers.

Pilot-testing experimental programs also provides an opportunity for effective research. Adequate sampling is possible because of the small numbers involved, and the limited size makes data collection and analysis a much more manageable task. In addition, the small size of the program and its experimental billing conform to the requirements of random selection and controlled research design. Since the program is experimental (i.e., has an unknown impact), those not participating are not necessarily deprived of equal opportunity. Also, because the numbers that can be served are small, random selection is the most equitable process for deciding who participates in the program.

Methodology. When evaluation research is undertaken, a research approach must be selected. Three basic approaches are possible: nonexperimental, quasi-experimental, and experimental. Nonexperimental procedures can involve a wide variety of research methods including surveys, case studies, cohort analysis, and before-after studies. Quasi-experimental designs likewise are of many types, with comparison groups and interrupted time-series among the most popular. Controlled experiments, on the other hand, are narrowly defined. They include only those studies in which treatment results are compared with a control group consisting of randomly selected individuals eligible for but denied any form of the treatment being evaluated.

Although some of the best evaluation research presently being conducted in the criminal justice area involves juveniles, the great majority of evaluation designs used in juvenile justice programs are nonexperimental in nature. Such designs have utility in providing quick information to managers, but they lack the power to delineate cause-effect relationships. Only experimental designs have the potential for clearly indicating that a particular result was produced by a specific intervention. By definition, programs warranting evaluation research are those in which such information is required.

Nonexperimental approaches are least capable of defining cause-effect relationships and are not recommended as stand-alone procedures for evaluation research. However, these approaches can be of considerable value when combined with experimental designs or when they support the standardized general monitoring system recommended in these standards. For example, a day school program for delinquents may be evaluated by randomly selecting participants, then comparing their improvement with that of individuals eligible for the program but randomly selected as nonparticipants.

As a supplement to this experimental design, attitude surveys (nonexperimental methods) of parents and youth involved in the program may provide important insight on why the program is or is not effective.

As the name implies, quasi-experiments have the form of controlled experiments but not their substance. These experiments lack random selection, which means they do not allow exact specification of cause-and-effect relationships. However, quasi-experiments may be the design of choice in situations where the program evaluated is very complex, or those in which random selection is not possible. Random selection, for example, would not normally be appropriate in evaluating an entire juvenile justice system.

Even in the case of programs with limited scope, denying treatment may raise equal justice or ethical questions. For example, the probability of conviction and the nature of court dispositions may be related to whether or not a juvenile has had pretrial diversion. Thus, in that case, it seems unethical to deny pretrial diversion to otherwise qualified juveniles in order to satisfy an evaluation objective.

On the other hand, controlled experiments are the most powerful evaluation tool currently available and should be used whenever possible. Prior to each evaluation research study, the situation should be assessed in the light of three standard arguments for random selection and controlled experiments:

1. Randomization is the most equitable method of deciding the distribution of limited resources;

2. Without evidence of a program's utility, there is insufficient reason to believe that those not in the program are being denied anything of value; and,

3. Cause-effect information is needed for the long-term good of society and of the juveniles served by the system.

By this line of reasoning, the rights of juveniles do not exclude randomization; they require it. Juveniles have the right to be treated by programs that have known effectiveness. And this can be known only by implementation of a carefully controlled experiment.

If these arguments apply, and if the program can be made amenable to a random selection process, a controlled experiment is the design of choice. However, regardless of the experimental design used, evaluation research should be carefully designed and conducted. A poorly executed experimental design has less power and utility than a well-executed nonexperimental design.

The evaluation design should also incorporate management information needs and should conform to the decisionmaker's time schedule. In short, the emphasis in evaluation research should be on meeting the information needs of decisionmakers. Achieving a perfect research design should be emphasized only as it relates to the first priority.

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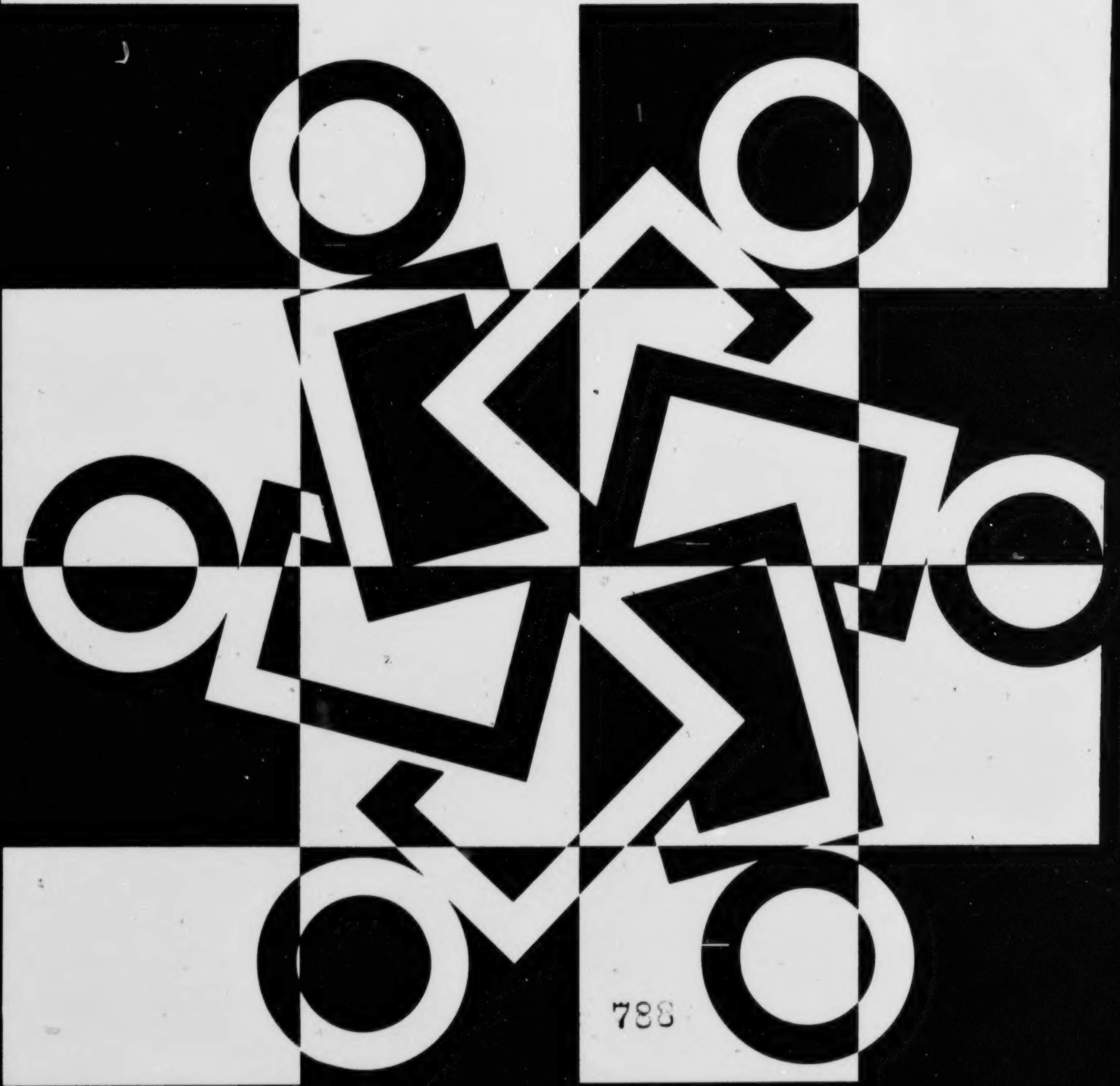
Related Standards

The following standards may be applicable in implementing Standard 27.4:

2.2 Office of Delinquency Prevention Planning
2.3 The State's Role in Delinquency Prevention
2.8 Financing Delinquency Prevention Programs
2.9 Resource Allocation
7.2 Planning Commitment
7.3 Evaluation Commitment
18.5 The Leadership Role of the Family Court Judge
25.4 Data Requirements
28.2 Access to Juvenile Records
28.4 Computers in the Juvenile Justice System

Chapter 28

Security, Privacy, and Confidentiality of Information About Juveniles



INTRODUCTION

With the growing government practice of gathering more information about individuals, public concern about this process also has increased. For several years the Congress has considered legislation to limit access to the criminal records of arrestees and convicted offenders, in an effort to avoid personal branding or labeling that might result from knowledge of past conduct.[1]

In 1973, a special advisory committee to the Secretary of Health, Education, and Welfare (HEW) issued a report on "Records, Computers, and the Rights of Citizens."[2] That same year, Congress enacted the Privacy Act to regulate personal information kept by the Federal Government.[3] In 1976, LEAA, which for several years has supported State and local criminal justice information systems, issued regulations on access to information.[4]

These legislative efforts and regulations do not deal specifically with the juvenile justice system. The National Association of Juvenile Court Judges, as well as the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project, have focused on the need to define and establish standards for dealing with information about juveniles. The standards and commentaries in this chapter are a further step in this direction.

Limitations and Definitions

A key question is what entities are to be included in the regulations on information about juveniles. For instance, it would be impractical to encompass such organizations as schools, churches, and civic groups. A wise approach initially is to be restrictive, covering only the records of agencies within the official juvenile justice system. This approach would include police and diversion organizations, as well as the courts, custodial institutions, and community supervision agencies.

Once the system's scope is limited, the nature of the records to be included must be identified. Here the intent is to reach the official records and files an agency uses to conduct its business. However, it is probably not practical to include within the scope of the agency's information management responsibility the personal notes or records agency employees keep to assist them in their own functions. One option would be to prohibit the maintenance of any notations except in official agency files. However, there is always the risk that an agency official or employee may not act in good faith and may circumvent confidentiality, whatever the rules. Perhaps a better approach is through employee education and motivation, stressing the responsibility for confidentiality and the need to destroy any personal notes or records no longer needed to perform a task.

It also is important to develop a context for addressing privacy of information as it relates to the juvenile justice system. Definition is critical because of the wide scope of subjects grouped under the rubric of privacy. These subjects range from the right of an individual to use contraceptives to the right to prevent others from inspecting a bank account or entering a home without a warrant. The following statements may be helpful in clarifying the privacy issue:

Privacy refers to the individual, and asks the question, "What personal information is gathered and how?"

Confidentiality refers to information and asks, "Who can see personal information and under what circumstances?"

Security refers to the information system, whether manual or automated, and asks, '"How is the information safeguarded?"

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[1] S. 1008, 94th Cong., 1st Sess., e.g.

[2] Report of the Secretary's Advisory Committee on Automated Personal Data Systems, U.S. DHEW, July 1973.

[3] P.L. 993-579, Dec. 31, 1974.

[4] Fed. Reg., Vol. 41, No. 55, Mar. 19, 1976.

Personal information is any information on an identifiable individual, such as name, social security or case number, or other identifying characteristics.

Principles of Fair Information Practice

In considering the standards that follow, it will be useful to bear in mind the objectives that form the framework for the standards.

In that connection, the Department of Health, Education, and Welfare report, "Records, Computers and the Rights of Citizens" and the Privacy Act of 1973 have articulated some important principles associated with information privacy that are generally applicable to the management of information. It is important to remember that information is a decisionmaking and policy formulation tool, and that confidentiality is just one important aspect of regulating use and management of such information. The following principles provide a framework for good practices in dealing with any information; they also incorporate ideas of fairness when the information is personal.

1. **Gather only the information needed for lawful and authorized purposes.** Too much information can confuse and encumber the decision process and is costly to maintain. Further, as more personal information is kept, the possibility increases that an individual's privacy can be compromised.

2. **Be sure the information is relevant, timely, accurate and complete.** The notion of relevance to a particular decision is basic to the first principle cited. However, information that may be needed at one time may not be relevant to later matters. Outdated or irrelevant information is useless; incomplete information may be misleading; and inaccurate information can be dangerous.

3. **Give the data subjects access to information about themselves.** Not only is this principle fair with respect to personal information, but the data subjects are important resources in monitoring compliance with the principle requiring information to be relevant, timely, accurate, and complete.

4. **Use data only for the purposes for which they were collected.** In terms of personal information, this principle is consistent with fairness. If the data have been gathered directly from the data subjects, those individuals may have been induced to give the information because of the intended use.

5. **Protect the information.** If data are important for making decisions, they are worth safeguarding. Data security reinforces the confidentiality of personal information. In terms of general information use, it is necessary that important data not be lost, destroyed, or altered if their utility is to be maintained.

In terms of personal privacy, if personal information is retrievable by reference to name, social security or case number, or other identifying characteristic, the confidentiality constraints must apply.

Often information about one person may be present in the record of another. It would, however, be nearly impossible to tract this personal information; if it cannot be retrieved it is unlikely that the information could be used to affect that person, positively or negatively, without extraordinary effort. A person's privacy can never be protected against every possible invasion; the rule of reason should guide the establishment of constraints.

Information Privacy and Juvenile Justice

Though the principles of good information practice appear on face value to be reasonable, their application to particular information systems may be questioned. This is especially true with the juvenile justice system. For example, a question arises with respect to an individual's access to his or her own file. In some instances, because of a juvenile's age or mental or emotional inadequacy, such access may be unwise. However, the right of access by another person in that individual's behalf may be a reasonable alternative. Another question arises in limiting information use to the purpose for which it was collected; doing so may cause added burden and cost in gathering similar information for another reason. This report recognizes these and other problems, but indicates that privacy principles should carry with them a presumption of validity and utility. Therefore, the principles should be restricted or discarded only upon a persuasive showing of good cause.

LEAA Regulations on Criminal Justice Information Systems

The LEAA regulations referred to earlier take effect on December 31, 1977. The regulations do not restrict access to conviction data but only to nonconviction data. The States themselves must impose restrictions on conviction files or give access to nonconviction data for other than law enforcement purposes. The Federal regulations are minimal in terms of limiting information access. However, since many important information regulation decisions are left largely with the States, the guidance that comes from these standards is important in encouraging a comprehensive and uniform approach to juvenile justice information management.

LEAA also will soon issue regulations on criminal justice research and statistical information. Preliminary drafts of these rules permit dissemination when all personal identifiers are stripped from data, or when the recipient of personally identifiable information is engaged in a *bona fide* research activity. There is no intent to impair useful research, although it is important that recipients of personally identifiable research data should themselves make a binding agreement to protect confidentiality.

A Comment on Computers

It is sometimes alleged that computers are the cause of information privacy problems. However, computers only compound the problem because of their vast capacity for data storage and manipulation. On the other hand, while it is extremely difficult to safeguard a manual data system, a properly designed computer system can keep the data quite safe and can monitor access and dissemination. Thus it is important to make decisions on computer use on the basis of information volume and transactions, as well as the sensitivity of the data stored.

Standard 28.1

Collection and Retention of Information on Juveniles

Each State should enact laws governing the collection and retention of information pertaining to juveniles. Rules and regulations should be promulgated to provide for reasonable safeguards to protect against the misuse, misinterpretation, and improper dissemination of the information and for periodic evaluations of information collection and retention practices within the State to determine whether information is being collected, retained, and utilized properly.

Commentary

The intended effect of guidelines for collection and retention of information is to make the process more visible, rational, and subject to review. The process of collecting information should involve a conscious attempt to collect only relevant and necessary data that will contribute to the accuracy and utility of children's records.

This standard recommends that States establish rules and regulations governing the management of information on juveniles. Juvenile and family courts, probation departments, social welfare agencies, corrections and treatment facilities, and many other individuals and institutions all collect and retain a good deal of information about the juveniles and families with whom they come into contact. It would be unrealistic to expect local family courts or court personnel to assume oversight responsibility for the information practices of such a wide range of State and local entities. State regulation is the only feasible way to insure that every public or private agency, organization, or department to which a child is referred for treatment or services protects the confidentiality and security of that child's records.

Each State must establish standards according to its individual requirements. For example, a State with many social agencies and institutions and a large population concentrated in urban areas has different needs than one with a small, mostly rural population and few social agencies and institutions. However, any set of rules and regulations governing the collection and retention of information on juveniles should take into account three basic premises.

First, too much as well as too little information can inhibit decisionmaking. Decisionmakers often assume that the more information they have, the better their decisions will be. However, the adverse effects of unlimited information can be considerable. The sheer bulk of material can convey an impression that the child's record is bad. Unanalyzed accumulations of data tend to be redundant and further distort the severity of the child's record.

On the other hand, too much information can overload the human mind and often serves merely to bolster the decisionmaker's confidence in his or her own decision or to reinforce a preliminary determination. Every effort should be made, therefore, to encourage information practices in which only the most salient information items are collected and retained.

Second, the need for information increases, and decreases in direct proportion to the availability of options for the decisionmaker. In some situations the decisionmaker may have only two options. When this is so, four or five information items usually will form the basis for the decision and any additional items only serve to bolster the decisionmaker's confidence in the decision. Often, however, in complex decisions directly affecting a particular child's future, a number of options will be available. In such situations, of course, more information will be necessary to make the decision.

Finally, information is often misused, misinterpreted, or not used at all. The potential for invasion of privacy and misuse of even necessary items exists in any information system. Also, the stigmas and stereotypes resulting from certain types of information may worsen rather than ameliorate the child's problems.

It seems clear that in a situation involving superfluous information, the child's privacy interest and the danger of misuse outweigh whatever value a decisionmaker might gain from that information. By placing reasonable controls on the accumulation of information at the collection stage, some of the dangers of misuse will be averted without hampering the decisionmaking process.

The standard makes the general recommendation that each State's rules and regulations on information collection and retention provide reasonable safeguards against misuse, misinterpretation, and improper dissemination. An information system with such safeguards could have many components; however, any regulation system should contain certain very basic points.

First, the State should specify what information on juveniles can be collected. These rules could be expressed in terms of the purpose for which the information is to be used. An examination of juvenile records in at least some juvenile courts indicates that some of the information collected in fact serves no purpose. Limiting collection to certain proper purposes should minimize omnivorous information collection for its own sake, which tends to perpetuate itself and pose a threat to freedom and privacy rights.

Four examples of purposes may be derived from the overall goal of providing services to children. The first, that of making lawful decisions about a child, affects the child directly and is the primary reason for the juvenile or family court. Three other purposes, managing the court efficiently and effectively, evaluating the court, and aiding certain types of approved research enhance the provision of services indirectly by improving the court's functioning.

Rules also could be formulated on the circumstances and types of information to be collected. For example, where the information is personal, rules should require that the juvenile be informed of its collection. Another example would be a rule requiring that those preparing a social or psychological history inform the juvenile of that fact. The information seekers should also review that history with the juvenile and explain all medical or technical terminology.

States also should formulate guidelines specifying what information can be retained in the records or files of courts and other agencies or institutions. At a minimum, these guidelines should require that any information kept on an identifiable juvenile in any retrievable form must be accurate, and that it can be collected under the appropriate rules.

Finally, the rules and regulations of each State should provide a procedure by which juveniles, parents, or their representatives may challenge the accuracy of records. Also, each juvenile who is the subject of a record should be made aware that such a procedure is available.

Periodic Evaluations

The standard also recommends that each State review its information collection management and retention practices periodically, to determine whether information is being properly collected, retained, and utilized.

The first reason for this recommendation is to guide the State in the evaluation and improvement of its operations. Any system of rules and regulations becomes outdated with the passage of time and changing conditions. Conducting a periodic audit to see how well State practices fit the current situation provides a regular opportunity to bring rationality and efficiency into the information-gathering system. Self-evaluation allows the State to ascertain points where information collection practices or policies have become inefficient or do not comply with guidelines pertaining to juveniles.

Second, periodic review of the information system should provide public accountability for State practices and policies in this area. Public accountability should serve as a quality control on the State's functioning and insure that abuses will be corrected by concerned public representatives. Public monitors can assess the system's effectiveness, its concern for the interests of youth, and its cost to the public.

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Related Standards

The following standards may be applicable in implementing Standard 28.1:

1.2 Collecting Delinquency Data
1.6 Integrating Individual Prevention Programs Into the Community Comprehensive Plan
2.2 Office of Delinquency Prevention Planning
4.5 Procedural Differences for Handling Juveniles
5.12 Guidelines for Fingerprinting, Photographing, and Other Forms of Identification
5.13 Guidelines for Release of Information and Photographs to News Media
5.14 Guidelines for Basic Police Records
8.6 Family Court Rules
11.1 Respect for Parental Autonomy
11.7 Encouraging Accountability
18.1 The Court's Relationship With Law Enforcement Agencies
18.5 The Leadership Role of the Juvenile Court Judge
19.5 Specific Responsibilities
25.4 Data Requirements
28.4 Computers in the Juvenile Justice System

Standard 28.2

Access to Juvenile Records

Juvenile records should not be made public. Access to and use of these records should be strictly controlled to limit the risk that disclosure will result in the misuse or misinterpretation of information, the unnecessary denial of opportunities and benefits to children or an interference with the purposes of official intervention.

Commentary

This standard on juvenile records is intended to limit the risk that disclosure will result in misuse or misinterpretation of information, the unnecessary denial of opportunities and benefits to children, or an interference with the purposes of official intervention.

It is important to define clearly the nature and scope of juvenile records. It would be unwise to attempt to deal with all information management practices of all agencies and institutions in contact with juveniles or their families. It is probably best, therefore, to limit the scope to those formal records maintained when a juvenile is officially brought to the attention of the juvenile justice system.

Further, the records covered should be limited to those that are indexed or retrieved by reference to a specified juvenile, whether by name, identifying number, or other characteristics. It is an unreasonable task to retrieve information about a specific juvenile from the records of other juveniles or adults. As technology and management expertise improve, the screening and sifting process can be enlarged.

Any restrictions on the access to or use of juvenile records should apply to all disclosures of information. Thus, a person rightfully accorded access to juvenile case data, probation files, or research records should not disclose the information to any other person unless the latter is also authorized to receive that information.

Juvenile Case Files

A juvenile case file is the court record of the juvenile proceeding, including transcripts of hearings, motion papers of all types, trial briefs, and appellate briefs. The following are examples of persons who should be granted access to case files:

1. The subjects of the files, along with their parents and attorneys;
2. The prosecutor or community advocate involved in a case;
3. A judge, probation officer, or other professional to whom the case has been assigned or before whom a proceeding with respect to the child is pending or scheduled;

4. A person granted access in accordance with the guidelines pertaining to research; and

5. A member of the clerical or administrative staff of a family court, if access is authorized for internal administrative purposes.

In addition, a State may want to provide limited access to case files for:

1. The State juvenile correctional agency, if a juvenile is detained by or otherwise subject to agency custody or control;

2. The State department of motor vehicles, provided that the information given the department relates to traffic offenses and is specifically required by statute; and

3. A law enforcement agency, for the purpose of executing an arrest warrant or other compulsory service; for use in a current investigation, a pending case or for making diversion decisions.

The family court should always indicate a case's final disposition to the agency that arrested the juvenile, initiated the complaint, or filed a petition. Also, a probation officer or other professional should be allowed to furnish indirect access to case files, with juvenile and parental consent, if the information to be disclosed is beneficial to youths or parents.

Juvenile Probation Files

Juvenile probation files include social histories prepared by the probation department for use in dispositional hearings, records of ongoing probation counseling, periodic evaluations and reports, and medical or psychological reports. As with case files, probation files should be accessible to juveniles, parents, their attorneys; the prosecutor or community advocate; the judge and probation officer(s) associated with the case; and research and clerical personnel using the files for proper purposes. However, there is no reason to release probation files to any other party in the juvenile court proceedings. In addition, a youth's probation file may, for example, be available to the following:

1. A person, agency, or department, when the youth has been committed to its care;

2. A person, agency, or department that is providing or may provide services to the youth. However, the information disclosed under these circumstances should be only enough to secure the services involved, and should be disclosed only with the youth's and/or parent's informed consent.

To guard against any misinterpretation, a family court releasing a social history of any kind should not release that history in summary form. A detained factual explanation of any diagnosis or conclusion should be set forth, and labels should be included only if absolutely necessary. The court should not, for example, release a statement that a child is mentally retarded or schizophrenic, without a detailed description of the symptoms and the instruments and methods used in evaluation.

If the native language of youths or their parents is not English, any social history or other probation record should be appropriately translated prior to its release. If the record contains professional language or other potentially confusing information, an appropriate professional should explain the history to them.

Research or Evaluation

Research is a necessary function of the criminal and juvenile justice system; statistical and scientific research is especially important in determining the causes of delinquency, patterns of recidivism, and the effect of diversionary programs on future delinquents' behavior.

Any system of controls on the access to and use of juvenile records should have special provisions for research projects undertaken for valid educational, scientific or other public purposes. Such provisions should establish an application procedure for any person seeking access to juvenile records for research or evaluation. Possibly these applications could be made to a Children's Privacy Committee (see Standard 28.3) or to the particular agency or department holding the records to which access is requested (e.g., the police department).

An application for access to records should include a detailed description of the proposed project, including a specific statement of the information required and its purpose. The application also should demonstrate that the project preserves the subject's anonymity.

Applicants for access should agree in sworn statements not to reproduce any information from a juvenile record, except for internal purposes. They also should agree not to disclose such information to an unauthorized person. If the applicants are adequately trained and qualified to undertake the proposed research and evaluation and meet the above requirements, the application should be approved.

Any final reports, findings, or conclusions of the research or evaluation project should hide individual subjects' identities. In the course of a particular project, if the entity responsible for enforcing the access guidelines has reason to believe that the project is not being carried forward as agreed, that entity should terminate the project and impose whatever other restrictions are necessary to preserve the security of sensitive information already obtained.

Third Person's Use of Juvenile Records

Public and private employers, licensing authorities, credit companies, insurance companies, banks, and educational institutions should be prohibited from seeking any information on whether a person has been arrested as a youth, charged with committing a delinquent act, adjudicated a delinquent, or sentenced to a juvenile institution. Some very narrow exceptions to this general prohibition may be established for very sensitive occupations (e.g., law enforcement officers) in which the juvenile record may be uniquely related to public safety. Legislation should also be enacted to penalize the improper disclosure of information.

Harmful Information

If a professional assigned responsibility for a particular juvenile's case believes that disclosure of certain information is likely to cause the juvenile or family severe psychological or physical harm, the professional should determine whether that information should be disclosed and the means for doing so. Whenever possible, the potentially harmful information should be deleted from the record, and all available steps should be taken to assure that the information will not be used in any way against the youth. Alternatively, potentially harmful information could be withheld pending disclosure to an independent representative of the juvenile or parents. The latter could then judge whether disclosure of the information to the juvenile or parents is necessary.

Where it is absolutely necessary to disclose harmful information, professional counseling and support should be offered to the juvenile or family.

Current statutory provisions and case law decisions have raised the issue of adopted children's rights to know the facts about their biological background, including names and other personal information about their natural parents. This report indicates that disclosure of such information, especially when it violates an agreement with the biological parents, can cause substantial harm to the child and both the natural and adoptive parents. The report therefore recommends that strict procedural controls be placed on access to adoption files, and that access by adoptees be allowed only upon a show of good cause.

Related Standards

The following standards may be applicable in implementing Standard 28.2:

1.2	Collecting Delinquency Data
1.7	Evaluation
2.2	Office of Delinquency Prevention Planning
2.3	The State's Role in Delinquency Prevention
4.5	Procedural Differences for Handling Juveniles
5.11	Guidelines for Referral to Juvenile Intake
5.12	Guidelines for Fingerprinting, Photographing, and Other Forms of Identification
5.13	Guidelines for Release of Information and Photographs to the News Media
5.14	Guidelines for Basic Police Records
8.6	Family Court Rules
11.1	Respect for Parental Autonomy
14.5	Dispositional Information
14.6	Sharing and Disclosing of Information
18.4	The Court's Relationship With the Public
18.5	The Leadership Role of the Family Court Judge
25.4	Data Requirements
28.3	Children's Privacy Committee
28.4	Computers in the Juvenile Justice System
28.5	Sealing of Juvenile Records

Standard 28.3

Children's Privacy Committee

Each State should establish by statute at least one Children's Privacy Committee. In some States the geography or diversity of population concentrations may make it necessary for this committee to include regional committees or subcommittees. Those States with a Security and Privacy Council on adult information systems could establish a Children's Privacy Committee as a subcommittee of the council. Committee members should include persons with expertise in child advocacy, delivery of youth services, information systems, and juvenile justice activities.

The purpose of the Children's Privacy Committee is to institutionalize a concern for juvenile records, to promote consistency in recordkeeping practices, and insure visibility in recordkeeping decisions. The Committee should have the authority to examine, evaluate, and make recommendations on privacy, juvenile records, and information practices and policies pertaining to children. The Committee also should be able to apply civil remedies and administrative, civil, and criminal sanctions for the improper maintenance and use of juvenile records.

Commentary

The concept of a security and privacy council, as described in this standard, was first recommended by Project SEARCH in 1971. That concept has become law in Massachusetts, and also is part of recently proposed Federal legislation.

Both the SEARCH proposal and the Federal legislation involve only adult criminal record systems and automated systems. However, the need to institutionalize a concern for privacy and security interests should be evident whether the records systems are manual or automated, and whether the records involve children or adults. Indeed, the child's special status, which involves a lack of economic and political power and the need for protection against institutional and adult excesses, makes the case for a Children's Privacy Committee that much stronger.

The primary purposes of a Children's Privacy Committee are to institutionalize within government a special concern for children and their privacy rights and to make information and privacy issues more visible. To accomplish that purpose, the Committee is given the general authority to examine and evaluate information issues pertaining to children, conduct investigations, make recommendations, and commence litigation. The intent is to provide the Children's Privacy Committee with broad regulatory power over all juvenile information systems, including the vast array of private and public agencies providing services to children. Jurisdictions where funds are limited, or where it is impossible or impracticable to delegate authority on information systems to a particular agency, should consider a less comprehensive model.

This standard recommends that at least one privacy committee be established in each State. In some areas, the geography or diversity of population concentrations may indicate that another model should be developed—perhaps regional committees or subcommittees.

This standard does not describe the relationship between a Children's Privacy Committee and the State agencies that have regulatory authority with respect to children. In some States, it may be possible to establish a committee within an existing agency; in others, it will be preferable to create an independent committee. The latter approach helps the impact of vested interests and other problems that inevitably arise if a committee within one agency of State government is asked to regulate the activities of another State agency.

Finally, the standard specifically authorizes Children's Privacy Committees to enforce actions against juvenile agencies whose information systems and practices do not conform to the applicable statutes, rules, and regulations. However, a Children's Privacy Committee should grant those agencies a reasonable opportunity to comply before taking enforcement action.

References

1. House of Representatives Bill #61, 94th Congress, 1st Session, Section 301 (1975).

2. Massachusetts General Laws, Chapter 6, Section 170.

3. Miller, A. *The Assault on Privacy* (1972).

4. National Advisory Commission on Criminal Justice Standards and Goals. *Criminal Justice System* (Standard 8.1). Washington, D.C.: Government Printing Office, 1973.

5. Project SEARCH. *Technical Memorandum No. 3: A Model State Act for Criminal Offender Record Information* (May 1971).

Related Standards

The following standards may be applicable in implementing Standard 28.3:

1.7	Evaluation
2.3	The State's Role in Delinquency Prevention
8.6	Family Court Rules
11.7	Encouraging Accountability
14.6	Sharing and Disclosing of Information
18.5	The Leadership Role of the Family Court Judge
25.4	Data Requirements
28.4	Computers in the Juvenile Justice System
28.5	Sealing of Juvenile Records

Standard 28.4

Computers in the Juvenile Justice System

Any computerized system used by a juvenile justice system to store information pertaining to juveniles should be designed to assure compliance with Standard 28.1, Collection and Retention of Information on Juveniles; Standard 28.2, Access to Juvenile Records; and Standard 28.5, Sealing of Juvenile Records. The data included in the computerized system should be objective and factual rather than subjective, predictive, or diagnostic.

A computerized system should be adopted only if the ability of the juvenile justice system to deliver services to children and families will be substantially enhanced by automation, and if the economic and privacy costs of automation are less than the benefits it offers.

Commentary

Special concern about the use of computers is not new. The concept has been proposed by Project SEARCH and by the National Advisory Commission on Criminal Justice Standards and Goals, in its *Criminal Justice System* report. A Federal regulatory agency with authority over all computer privacy issues has been recommended, and the U.S. Congress recently made the following finding in the preamble to the Privacy Act of 1974: "The increasing use of computers . . . has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use or dissemination of personal information." (Act of December 31, 1974, P.L. 93–579 § 2, 88 Stat. 1896.)

The primary reason for concern about computer use is that these tools enlarge tremendously the capacity to store and disseminate information, and create a class of technical processors often remote from information users and suppliers alike. On the other hand, the use of computers may also produce certain benefits by (1) compelling managers to focus on the cost of information collection and retention, (2) enhancing the capacity for research, evaluation, and efficient management, and (3) allowing those working with hardware and software systems to secure data in a manner not possible in a manual system. Nonetheless, such problems as error, malfunction, and privacy become magnified by computer use and warrant special constraints.

"The science fiction mystique surrounding cybernetics has tended to create an illusion of computer impregnability" and the argument that "computerizing personal information will result in greater protection for file privacy than yesterday's manila folder." (Miller, A. *The Assault on Privacy*, pp. 41–42). In the future improved technology may support that argument. For the present, however, this standard mandates caution both to enhance the proper use of computers and to discourage their improper use.

Special concerns arise when the subjects of computerized records are children, who need protection from unnecessary stigma and must have the opportunity to mature without being contrained by a prison of records.

This standard does not specify the form of special scrutiny over computer use within the juvenile justice system. One possibility is a procedure derived from a model first developed by Project SEARCH. That model provides for evaluation and comment by a group similar to the Children's Privacy Committee recommended by Standard 28.3.

In the context of the juvenile justice system, the State wishing to convert to a computerized juvenile information system would submit an automation statement to the Children's Privacy Committee. This statement would describe in detail the system to be used, the data to be stored there, the purposes of the system, the quality controls to be provided, access and dissemination provisions, methods for protecting privacy and assuring system and personnel scrutiny, provision for an independent audit, and the estimated costs of establishing and maintaining the system.

The Children's Privacy Committee would then publicize and receive comments on the automation statement. After evaluating a proposed computerized system, the Committee would issue a written report that should be a matter of public record.

The standard suggests substantive limitations on what information can be retained in a computerized juvenile information system, and how retention is achieved. First, the system must be designed to comply with State rules and regulations on (1) collecting and retaining information about juveniles, and (2) providing for access to and sealing of juvenile court records. Furthermore, data included in an automated system must be objective and factual, not subjective, predictive, or diagnostic. This requirement is designed to insure that certain kinds of sensitive and personal information (the major portion of most social histories) are not computerized.

Computerization and its economic costs often make data management a service agency's primary goal, causing unnecessary constraints on data gathering, processing, and output. As a result, the system becomes rigid and insensitive to the interests of data subjects. An example of that rigidity and insensitivity is the use of predetermined multiple choice information categories, which create special risks not unlike those of labeling. Thus, social histories should not be included in computer records.

To be most effective, social histories should contain evaluative data, often based upon clinical intuition, and should be written in a fully descriptive and informative manner. As stated by a Canadian Commission:

> Computers are most efficient when dealing with information that can be quantified and systemized; information that is intuitive, ambiguous, or emotional is much more difficult to computerize. As a consequence, computers may reinforce the importance in the decision-making process of the technocrat over the humanist, the objective over the subjective. [A report of a Task Force established jointly by Department Communications/Department of Justice, *Privacy and Computers* 110 (1972).]

Finally, the standard requires a determination of need, service level, security, and cost before a computerized system is adopted. This provision is to assure that the decision to adopt an automated system of juvenile information retention results from well-planned consideration of the present juvenile justice system, its services, obligations and capabilities, and its most efficient method of functioning.

References

1. Altman, M. "Juvenile Information Systems: A Comparative Analysis," *Juvenile Justice,* Vol. 24 (1974).

2. Task Force Established Jointly by Department of Communication/Department of Justice. *Privacy and Computers* (1972).

3. *Federal Data Banks, Computers and the Bill of Rights,* Hearings Before the Subcommittee on Constitutional Rights, Committee on the Judicary, United States Senate, 92nd Congress (1971).

4. Massachusetts General Laws, Chapter 6, Section 117.

5. Miller, A. *The Assault on Privacy* (1971).

6. National Advisory Commission on Criminal Justice Standards and Goals. *Criminal Justice System.* Washington, D.C.: Government Printing Office, 1973.

7. National Council of Juvenile Court Judges. *Computer Applications in the Juvenile Justice System —Proceedings of the National Symposium on Computer Applications in the Juvenile Justice System,* Dec. 6–8, 1973, Atlanta, Ga. Reno, Nev.: National Council of Juvenile Court Judges (1974).

8. Project SEARCH, Technical Report No. 2. *Security and Privacy Considerations in Criminal History Information* (1970).

9. Secretary's Advisory Commission on Automated Personal Data Systems, U.S. Department of Health, Education, and Welfare, *Records, Computers and the Rights of Citizens* (1973).

10. Westin, A. *Data Banks in a Free Society* (1972).

Related Standards

The following standards may be applicable in implementing Standard 28.4:

1.2 Collecting Delinquency Data
1.7 Evaluation
2.3 The State's Role in Delinquency Prevention
4.5 Procedural Differences for Handling Juveniles
8.6 Family Court Rules
11.1 Respect for Parental Autonomy
11.7 Encouraging Accountability
14.6 Sharing and Disclosing of Information
18.5 The Leadership Role of the Family Court Judge
25.4 Data Requirements
28.3 Children's Privacy Committee
28.5 Sealing of Juvenile Records

Standard 28.5

Sealing of Juvenile Records

Each State should enact legislation providing for the prompt sealing of juvenile records when, due to dismissal of a petition prior to or as a result of adjudication, the rehabilitation of the juvenile, or the passage of time, the adverse consequences that may result from disclosure of such records outweigh the necessity or usefulness of retaining them.

Included within the legislation relating to the sealing of juvenile records should be precise procedures for notification of all persons, agencies, or departments that may have copies of the juvenile's record or notations regarding that record in their files, that the juvenile record has been sealed by the family court and that any such copies or notations should be destroyed or deleted.

Whenever a juvenile's record is ordered sealed, the family court proceedings should be deemed never to have occurred and the juvenile who is the subject of the record may inform any person or organization that, with respect to the matter in which the record was sealed, he or she was not arrested and never appeared before a family court.

Once a juvenile record is sealed, only the juvenile involved or an authorized representative should have access to that record.

Commentary

This standard is based on the general policy that all unnecessary information should be sealed to prevent the possible adverse consequences resulting from disclosure of juvenile records to third parties. Some information within a record may be sealed if time has obviated its utility or if subsequent events have challenged its validity. An entire record may be sealed if the juvenile's best interests, in balance against the interests of society, indicate such a course.

The only way to assure completely that no adverse consequences will be visited upon a person because of information obtained from a record is to obliterate that record. However, when a juvenile's record is destroyed, the information in that record is lost for all purposes. For example, the data can never be used for delinquency or crime prevention research. Moreover, the destruction of records can actually work to a juvenile's detriment because there is no official account to clear up misunderstandings about involvement or noninvolvement in delinquent behavior.

This report concludes that the benefits of purging or destroying records can be substantially achieved by sealing without incurring the risks of actually eliminating the record. Therefore, each

State should establish strict rules for sealing juvenile records. Those rules should assure that both the sealing action, and the record itself are made known only through the most carefully guarded judicial procedures.

The juvenile justice system's philosophy is grounded on two basic premises: that youths, because of their immaturity, should not be held criminally liable for their antisocial acts, and that youths can be rehabilitated. According to this philosophy, juveniles, unlike adults, should not have to bear forever the stigma of their impulsive and immature conduct. Thus, in almost all State statutes an adjudication of delinquency is not a conviction of crime, a decision that relieves juveniles of the penalties and disqualifications attendant upon an adult criminal conviction.

Most States declare juvenile court records confidential. However, juvenile court judges usually have very wide discretion in deciding to whom these records can be released. In addition, many States have statutory provisions, usually discretionary rather than mandatory, for sealing a juvenile's record upon fulfillment of certain conditions, such as no contact with the court for a certain number of years.

Many job opportunities, or governmental agencies, are explicitly foreclosed to those with juvenile records. A record involving delinquency also can preclude membership in labor unions or apprentice programs, or licensing for regulated occupations. The difficulties in finding employment are rampant even in unskilled labor jobs and increase with the level of skill required. Moreover, a juvenile with a record often is prevented from obtaining the education or training necessary to make gainful employment possible.

These disabilities are not the most devastating results of juvenile records; indirect economic and social effects resulting from adverse public sentiment can often be the most troublesome. Moreover, such public sentiments rarely distinguish between a person merely arrested and then released and a person actually adjudicated a delinquent, for example.

The appropriate circumstances for sealing a juvenile record will vary greatly with each case. The standard sets forth a very general guideline in the form of a balancing test: Juvenile records should be sealed when the possible adverse consequences that may result from disclosure outweigh the necessity or usefulness of retaining them. Such circumstances can result from the outright dismissal of a complaint against a juvenile, an affirmative showing of rehabilitation, or the mere passage of time. Each State is expected to develop more specific requirements for sealing, consistent with the general balancing test.

For example, a juvenile record could be sealed when the following occurs:

1. The application for a complaint is denied, the complaint or petition is dismissed, or the child is judged not delinquent;

2. In cases involving an adjudication of delinquency, when no subsequent proceeding results from filing a delinquency petition or a criminal complaint against the child; or when 2 years have elapsed since the youth's discharge from court supervision, and the juvenile has not been adjudicated delinquent as a result of a charge constituting a felony for an adult.

Each State should include within its legislation procedures for notifying agencies other than the family court of the sealing of juvenile records. Many times the records of police and other community agencies contain the same information as is found in juvenile court records. Because juvenile court records are characteristically confidential, employers, educational institutions, and others look to the other records for information. Too often the latter present a very distorted picture of what actually happened —e.g. by recording an arrest but not the fact that a delinquency petition was never filed or was dismissed for lack of evidence.

Each State will know best what procedures will assure that all persons, agencies, or departments with a copy of or notations on a juvenile's record receive notice of the sealing. Upon such notice, recipients should destroy or delete their records on that child.

When a record is sealed or destroyed, the event documented is deemed never to have happened. This action is not intended to pardon or forgive a child with a juvenile record. Rather, it is intended to complete the child's change in status from one with a juvenile record to one with no such record and no contact with the juvenile justice system, in terms of the event recorded.

Finally, the only person who should have access to a sealed juvenile record is the subject of the record, or someone acting in that individual's behalf.

References

1. Gough, Aidan R. "The Expungement of Adjudication Records of Juvenile and Adult Offenders: A Problem of Status," *Washington University Law Quarterly*, Vol. 1966 (1966).

2. Levin, Mark M., and Sarri, Rosemary C. *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States.* Ann Arbor, Mich.: National Assessment of Juvenile Corrections (1974).

3. The President's Commission on Law Enforcement and the Administration of Justice. *Task Force Report: Juvenile Delinquency and Youth Crime,* Washington, D.C.: Government Printing Office, 1967.

Related Standards

The following standards may be applicable in implementing Standard 28.5:

4.5 Procedural Differences for Handling Juveniles
5.12 Guidelines for Fingerprinting, Photographing, and Other Forms of Identification
5.13 Guidelines for Release of Information and Photographs to News Media
5.14 Guidelines for Basic Police Records
8.6 Family Court Rules
11.1 Respect for Parental Autonomy
11.7 Encouraging Accountability
14.5 Dispositional Information
14.6 Sharing and Disclosing of Information
18.5 The Leadership Role of the Family Court Judge
25.4 Data Requirements

Appendixes

APPENDIX 1

TASK FORCE ORIGIN AND WORK

The National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention was initiated as part of Phase II of the standards and goals effort undertaken by the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice. Phase I of the LEAA standards and goals effort began as a result of an LEAA evaluation of State and local criminal justice planning processes during 1971. The evaluation revealed that State planning agencies were relying heavily on the President's Crime Commission reports of 1967 in the construction of their individual State plans. LEAA recognized the need to develop plans based on more contemporary work and the need to address new areas not covered by the President's Crime Commission reports. At two planning conferences held by LEAA, criminal justice experts recommended the creation of a national commission as the most appropriate means to carry out this purpose. These recommendations led to the establishment by LEAA of the National Advisory Commission on Criminal Justice Standards and Goals in October 1971.

Thus, the National Advisory Commission is responsible for what LEAA now calls Phase I of its standards and goals effort. To support the work of the Commission, the Commission and LEAA created 12 task forces, each concentrating on a separate area of concern in criminal justice. One of these was the Task Force on Juvenile Delinquency. Due to a shortage of funds and the management problems created by attempting to administer such a large effort, only 5 of the 12 task forces went into full operation. All other task forces, including the Task Force on Juvenile Delinquency, became advisory in nature. The efforts of the task forces resulted in the completion of five task force reports: *Courts; Police; Corrections; Criminal Justice System;* and *Community Crime Prevention*. In addition, the National Advisory Commission itself produced an overview report entitled *A National Strategy to Reduce Crime*. Following the completion of these works in 1973, LEAA disbanded the National Advisory Commission.

In the spring of 1975, five new task forces were appointed by the LEAA administrator to carry out the work of Phase II. The five task forces were Private Security; Organized Crime; Civil Disorders and Terrorism; Research and Development; and, of course, the Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention.

The chairman of each of the five task forces was asked to serve on a new National Advisory Committee on Criminal Justice Standards and Goals (NAC). The LEAA administrator appointed seven additional persons to serve on the Phase II NAC. This body served to review and coordinate the work of the five special purpose task forces.

From the beginning there was a recognition that the work of the Juvenile Justice and Delinquency Prevention Task Force was much broader than the other four special purpose task forces.

The Phase I NAC had devoted most of its attention to the adult criminal justice system. A report by the Juvenile Delinquency Interdepartmental Council reproduced all the NAC standards that specifically focused on juvenile justice. They found that only 31 of the standards contained in the five task force reports dealt specifically with juvenile justice.

The charge of the National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention was to supplement the original work of the National Advisory Commission on Criminal Justice Standards and Goals with a juvenile version of the original adult-oriented standards and goals statements.

Members of the Juvenile Justice and Delinquency Prevention Task Force were selected by the LEAA administrator. Each Task Force member had significant relevant experience and expertise in the juvenile justice system and related agencies serving youth. Representation from virtually every facet of juvenile justice operation was included among Task Force members. Members from those professions most significant in youth development were also included. In addition to a wide diversity of professional orientations, the composition of the Task Force reflected wide ethnic, racial, and geographic distribution. These factors were important in producing a work product that was not heavily directed to the concerns of either any single group of professionals or any particular region.

The Task Force, throughout its work process, had the benefit of staff support. The American Justice Institute (AJI) of Sacramento, Calif., received a grant from LEAA to support the work of the Task Force. The American Justice Institute has had extensive national experience in research in this field and in conducting juvenile justice and criminal justice demonstration projects.

The American Justice Institute staff organized and coordinated the complex tasks involved in developing the comparative analyses of existing standards responsive to the directions provided by the Task Force. The AJI staff recruited, selected, and supervised the work of the specialized consultants, who prepared most of the standards contained in the volume.

Staff members, however, also took part in writing standards and commentary in many sections of the volume. They also carried out many of the revisions to standards and commentary which the Task Force requested. Finally, the staff had responsibility for completing final preparation of the draft volume for submission to LEAA.

The resources and the time provided to accomplish the challenging task of producing this volume did not allow the Task Force to conduct new research in juvenile justice and delinquency prevention to serve as a guide in producing the standards contained in this volume. The Task Force did, however, utilize a methodology that assured the incorporation of the best scholarship and state-of-the-art knowledge currently available.

This methodology involved identifying the major issues or questions that needed to be resolved before the Task Force could promulgate standards. Comparative analyses were then constructed around each of these issues. Each analysis began with a comparison of the positions taken on the issue by other standard-setting bodies, organizations, task forces, commissions, etc.

The Task Force also considered the current practice of each State with regard to the issue in question. This information was assembled into a series of documents called comparative analyses. The comparative analyses were designed not only to make Task Force members aware of the various positions that had been taken with regard to an issue, but also to provide the Task Force with a complete analysis of the basis of each position and the arguments for and against the position.

The issues raised within the comparative analyses were discussed at length at the regularly scheduled Task Force meetings. Discussion of the issues continued until Task Force members reached a consensus as to which position was most consistent with the Task Force philosophy and seemed to best serve the interests of juvenile justice. On many issues, no existing policy or policy recommendation truly reflected the philosophy of this Task Force. In such cases, recommendations for new juvenile justice procedures were formulated by Task Force members. Once a consensus was reached, staff and consultants were directed to prepare standards with commentaries that were in line with the position taken by the Task Force. This process proved to be very productive for the Task Force members. It allowed informed consideration of the pertinent issues prior to the adoption of any particular standard.

The comparative analyses stand alone as a separate work product of the Task Force and will be published separately by the National Institute of Juvenile Justice and Delinquency Prevention. These comparative analyses represent fine scholarship. They will be useful to States as they undertake their own standards and goals efforts.

Many of the issues discussed in the delinquency prevention section of this volume had not been considered by prior standards groups and few States have taken a position on these issues. As a substitute for comparative analyses and to assist Task Force decisionmaking on these issues, the staff commissioned five papers from leading behavioral scientists summarizing current delinquency prevention theories and the public policies that naturally grow from these theories. Task Force members engaged in a day-long discussion of these papers. This process proved to be valuable in increasing the ability of the Task Force to direct the writing of appropriate standards in delinquency prevention.

Drafts of the requested standards with commentaries were individually reviewed at meetings to insure that the finished work complied with Task Force directions and that Task Force members were in agreement with the tone, as well as the substance, of the final wording. Modification and, in some cases, complete redrafting were suggested by Task Force members for standards before agreement could be reached. A number of standards went through this process several times. Approval of each standard by consensus was not always an easy process for the Task Force. In cases where no clear Task Force consensus could be reached on the standards or commentaries, every effort was made to allow extended debate until a position could be decided upon. Each standard adopted was approved by a majority vote. Not every member agreed with every standard adopted by the Task Force or with the commentary supporting each standard.

Upon receiving Task Force approval, standards with commentaries were sent to the National Advisory Committee on Criminal Justice Standards and Goals for review. When disagreements occurred between the two bodies, the National Advisory Committee made suggestions for changes, but in no way modified the work of the Task Force unilaterally. The suggested changes in standards were thoughtfully reconsidered by the Task Force in each case. At subsequent meetings, discussion on the standards or commentaries was reopened to consider the National Advisory Committee recommendations. Most often, a conciliatory position was attained. In cases where agreement could not be reached between the two groups, however, it was agreed that the Task Force standards with commentaries in question would appear with an asterisk.

In all, the Task Force met 10 times, for 2 or 3 days each time, in public meetings in various parts of the Nation. At these meetings the Task Force was able to solidify their group philosophy, analyze the issues of importance in juvenile justice and delinquency prevention, direct the writing of standards and commentaries, review and modify draft material, and react to National Advisory Committee recommendations. Much of the language of the standards and commentaries, as well as the substantive ideas, are directly attributable to Task Force members.

APPENDIX 2

ETHNIC DISTRIBUTION OF CALIFORNIA JUVENILE JUSTICE CLIENTS

The Task Force believes very strongly that minority groups are overrepresented in the juvenile justice system and particularly in institutions. Though the data needed are simply not available nationally, California, the one State where more detailed data are available, appears to embody the situation that is being reported elsewhere in the Nation.

In a study commissioned by the California Youth Authority in 1974, Howard Ohmart analyzed the ethnic distribution of youth in various stages of the California Juvenile Justice System.* The black population among school children in the State was approximately 10 percent and the Mexican-American portion was 22 percent. Following are some excerpts from Mr. Ohmart's study.

"Minority members have historically been overrepresented in the offender populations of the state and country. Not only does this circumstance continue to prevail, but California's two major minority groups appear to constitute an ever-increasing portion of the correctional workload. This is particularly true of the blacks. Furthermore as we penetrate deeper into the Juvenile Justice System, the minority percentage (primarily the blacks) constitutes an ever-increasing portion of the total population.

"The table which follows reflects the ethnic mix of the populations as they appeared at various points

Ethnic Mix of Juvenile Corrections Populations 1973*

	Juvenile Probation Intake	Petitions Filed	Camps-Ranches	Y.A. Commitments	Y.A. Institutional Populations
Anglo	68.6%	60.3%	54.7%	47.3%	40.1%
Mexican American	14.5%	15.1%	17.7%	19.8%	22.0%
Black	15.0%	21.1%	24.2%	33.9%	35.5%

* Extracted from Juvenile Probation, California Bureau of Criminal Statistics, 1973, and Youth Authority statistical reports. Note: Columns will not total 100% because of the 2% to 3% that represents other ethnic groups.

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* Ohmart, Howard. "Reorganizing Youth Corrections in California," Long-Term Planning Council of the California Department of the Youth Authority, Sacramento, Calif. (Unpublished), April 1975.

in the juvenile justice process in 1973. It will be noted that while the blacks constituted only 15 percent of the juveniles in the probation intake group, they accounted for 24.2 percent of the camps and ranches populations, and 33.9 percent of those committed to the Youth Authority.

Interestingly, the court dismissed:

- 28.6 percent of petitions filed on Anglos.
- 27.8 percent of petitions filed on Mexican Americans.
- 37.3 percent of petitions filed on blacks.

"The changing pattern of ethnic mix in the Youth Authority populations is reflected in the following analysis of first commitments at four different points in time.

Ethnic Composition of First Commitments to Y.A.

4 Different Years

Year	Anglo %	Mexican American %	Black %
1970	55.4	17.5	24.8
1972	48.6	19.6	29.3
1974	47.3	19.8	30.1
1975	40.7	21.4	34.4

"It would be easy to conclude that the over-representation of the minorities in the correctional populations is but another manifestation of the racist nature of the justice system. Indeed the fact of a larger percentage of dismissals of Black youths by the Juvenile Court (noted above) would suggest that police and/or probation officers are prone to file a greater percentage of petitions on Blacks without the necessary substantiation. However, a principal reason for the over-representation of the minorities in corrections appears to result from their greater involvement in the most serious offenses. A partial analysis of the California Youth Authority's 1974 intake rather clearly establishes this fact. In the table that follows is shown the ethnic breakdown of the total intake, as compared to the ethnic breakdown for five of the serious offense groups. It would seem to indicate that the over-representation of the Black and Chicano groups in the general intake is largely attributable to their heavy involvement in the most serious crimes."

Y.A. Ethnic Group and Commitment Offenses 1974

Showing Ethnic Breakdown for Selected Offenses

	Total % Intake 1974	Homicide	Robbery	Assault	Rape	Burglary
Anglo	47.3	30.3	39.0	34.3	27.1	55.6
Mexican American	19.8	25.3	13.8	32.6	35.2	15.9
Black	30.1	41.4	44.3	29.2	35.2	26.0

Note: Columns will not total 100% because of the 2% to 3% that represents other ethnic groups.

APPENDIX 3

SOCIAL TRENDS AFFECTING CRIME AND DELINQUENCY

In 1973, the American Justice Institute commissioned Dr. Perry Rosove to conduct a study to determine the current and future social trends having an impact on the incidence of crime and delinquency.* In the course of the study, Dr. Rosove identified 10 major trends. These 10 major trends serve as an example of the kind of backdrop needed to understand the possible future of juvenile justice in the United States. This work is presented only as an example, as the Task Force recognizes that even the futurists disagree over what the future will bring.

Population Growth is the first of these trends

World population has been growing at an exponential or doubling rate for thousands of years. This is a well documented long-range trend. What is being increasingly disputed is the possible declines in this growth rate. However, even if we accept the most conservative estimates of future growth, the population of the world will continue to grow throughout this century.

There were one billion people in the world in 1825. By 1976, population of four billion is expected, with five billion expected by 1988 just 12 years later, and six billion by 1997, only nine years later!

Conservative estimates of the most probable future situation suggest a world population of between seven and ten billion people by 2100, or roughly *double* today's population.

Population growth in the United States has followed the worldwide trend. The Bureau anticipates a population of approximately 231 million by 1980. Estimates by the Bureau for the year 2000 range between a low of 251 million to a high of 300 million. The higher figure would be achieved if the growth rate of population in the United States reached a conservative 1 percent per year.

Of special interest here is the fact that the numbers of young people in certain age categories are changing as the total population increases.[1] For example, in 1959 there were more than 20 million young people between the ages of 14 and 21. This number increased by about one-third to almost

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* This material is taken directly from "The Implications of Long-Range Societal Trends for Crime and Criminal Justice," prepared by Dr. Rosove for the Criminal Justice Planning Institute, Center for the Administration of Justice, School of Public Administration, University of Southern California, February 1974.

The paper was a short version of the 350-page report prepared originally for Project STAR, administered by the American Justic Institute. The complete reference to this larger work is: California Commission on Peace Officer Standards and Training, the Impact of Social Trends on Crime and Criminal Justice, Project STAR, Anderson-Davis Publishing, Cincinnati, Ohio, 1976.

The Task Force has asked that reference to other futurists also be included here so that more than one view may be represented. See the references for additional sources.

[1] The data on 14- to 21-year-olds are from *Projections of Educational Statistics to 1979–80*, National Center for Educational Statistics, Washington, D.C., U.S. Government Printing Office, Table B–2, p. 155.

30 million by 1969. This increase of approximately 10 million in a decade reflects the "baby boom" following World War II. Projections for this same age category indicate close to 33 million by 1980, a relatively small increase of only 3 million for the 1970–1980 decade. Of greatest interest within this age category is an estimated stationary figure of between 16 to 17 million for the 14 to 17 age group throughout the 1970–1980 decade. But while white youth in the 16 to 19 age group will increase only 5 percent during the 1970–1980 decade, Negroes and other minorities in this age group will increase by 44 percent! [2]

Post-Industrialization is the second major trend

Of more recent vintage than worldwide population growth, is the long-range trend of industrialization, referred to as the Industrial Revolution. It is a revolution that is still going on all over the world. In the United States and other highly industrialized nations, the continuing process of industrialization is taking on new characteristics, referred to in the sociological literature as the "post-industrial society." [3]

The post-industrial society is characterized by new types of industries, and new types of workers—knowledge workers rather than manual workers.

According to Daniel Bell, the United States is now in the first stages of a post-industrial society. We are, he writes,[4] "the first nation in the history of the world in which more than half of the employed population is not involved in the production of food, clothing, houses, automobiles, and other tangible goods." The symbolic turning point came in 1956 when for the first time the number of white-collar workers outnumbered the blue-collar workers.

The U.S. Department of Labor projects only about 30 million workers in the goods-producing industries by 1980 in contrast to about 60 million workers in the services-producing industries.[5] Associated with the growth of the services-producing industries, we find the white-collar occupations growing faster than any other occupational group and the educational qualifications of the labor force have risen steadily.

The professional-technical class is becoming the major occupational group and, most importantly for our purposes here, innovation in society and material success become increasingly dependent upon theoretical rather than practical knowledge. Thus, education, particularly higher education, increasingly provides access to employment and privilege in the society.

Urbanization is the third major trend

This long-range and world-wide trend in which people move from rural to urban areas has been underway for hundreds of years.

In 1790 when the first census in the United States was taken, 95 percent of the population lived in rural areas. By 1970, 73.5 lived in urban areas.

Jerome P. Pickard's population projections, prepared for the President's Commission on Population Growth and the American Future, indicate that by the year 2000 he foresees 28 urban regions containing more than one million people each with eight out of ten Americans living in them.[6] The greatest concentrations of population will be in three urban regions: large parts of California and Florida, and a region extending from the Atlantic seaboard to the lower Great Lakes around Chicago.

One of the striking shifts in the distribution of the American population is the migration of Negroes from the South and into the central cities of urban regions. In 1900 about 90 percent of the black population lived in the South; by 1960 this percentage declined to 60 percent.[7] Also by 1960 Negroes had a larger proportion of their population living in cities than did the white portion of their population.[8] According to U.S. Bureau of the Census data, there were 1.3 million Negroes living in the central cities in 1900; 4.4 million in 1940; and 13.1 million by 1970.[9] Of special concern here is the fact that the population increase of Negroes in central cities was overwhelmingly among the young. Three-quarters of the total increase of Negroes in central cities from 1960 to 1969, or about 2 million persons, were under 25 years of age.[10]

The 1970 census data show a massive migration of white Americans out of the central cities to the suburbs, a process which is increasingly leaving the nation's cities to the poor, the young, and the black. In the largest cities, for example, those of 2 million people or over, there was a decline of 2.5 million whites and an increase of 1.8 million blacks.[11] In New York City in the 1960–70 decade the non-white population increased 61 percent, while its white population declined 9 percent.[12]

Many of our larger cities are becoming predominantly black ghettos.[13] Four large cities now have a black majority. Some cities are approaching a black population of 50 percent. Other cities have become more than 40 percent black.

Secularization is the fourth major trend

Another long-range trend of profound historical importance is the secularization of Western civilization. This trend is characterized by a gradual decline in the influence of religion. The gradual replacement of the sacred worldview by the secular has been accompanied by a group of related ideas or philosophies—humanism, empiricism, pragmatism, and utilitarianism.

Morality no longer stands unquestioned on the bedrock of religion but must increasingly justify itself on pragmatic and utilitarian grounds. This is true whether we look at marriage, adultery, homosexuality, abortion, or crime.

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[2] *Manpower Report of the President*, op. cit., p. 77.

[3] See Daniel Bell, *The Coming of Post-Industrial Society: A Venture in Social Forecasting*, New York: Basic Books, Inc., 1973.

[4] Daniel Bell, "Notes on the Post-Industrial Society," *The Public Interest*, Number 6, Winter 1967, p. 27.

[5] *The U.S. Economy in 1980*, Bulletin 1673, U.S. Department of Labor, Washington, D.C., U.S. Government Printing Office, p. 18.

[6] Jerome P. Pickard, *The Futurist*, Vol. VI, No. 6, December 1972, p. 239.

[7] Conrad Taeuber, "Population: Trends and Characteristics," in *Indicators of Social Change, op. cit.*, p. 33.

[8] Conrad Taeuber, *op. cit.*, p. 34.

[9] Conrad Taeuber, "Population Trends of the 1960's," *Science*, Vol. 176, No. 4036, 19 May 1972, p. 774.

[10] U.S. Bureau of the Census, "Population of the United States by Metropolitan-Nonmetropolitan Residence: 1969 and 1960," *Population Characteristics*, Series P–20, No. 197, March 6, 1970, p. 2.

[11] Conrad Taeuber, "Population Trends of the 1960's," *op. cit.*

[12] Data from a National Urban Coalition report in the *Los Angeles Times*, June 1, 1972.

[13] *Ibid.*

Democratization is the fifth major trend

Complex as the process of democratization is, it can be described in a sentence: "The life of the ordinary man is today made up the same . . . repertory which before characterized only the superior minorities. . . ."[14] The distinctive ways of life which once set apart the upper and lower classes of society are gradually disappearing. As David Riesman and others point out, we are all increasingly members of the leisure class.

Egalitarianism And Meritocracy, the sixth and seventh major trends

Closely related to democratization are the trends toward increasing egalitarianism and meritocracy. Not only are the differences between the social classes disappearing, but the inequalities that once separated the races, the sexes, and the old from the young are also gradually breaking down. The U.S. Department of Labor reports, for example, that the female labor force almost doubled between 1947 and 1971.[15] This increase is far larger than might have been anticipated on the basis of population growth alone. "Woman's liberation" is not just a slogan but a fact of contemporary life. In 1970 the non-white and white differences in school attendance had been almost completely eliminated.[16] An increasing proportion of women and Negroes are going to college and obtaining higher degrees. Similarly, an increasing proportion of women and Negroes are entering the professions which were once closed to them. The reduction of the age of adulthood from 21 to 18 years of age illustrates the increasing equality between the young and old.

In a society which has been democratized, and in which advancement is based increasingly on merit rather than one's family name, social position, or inherited wealth, it is not surprising that education is becoming increasingly popular. From 1940 to 1970, for example, student enrollments at all levels rose from 29.9 million to 63 million.[17] And in the same period of time, enrollments in vocational, technical, and professional training rose from 11.8 million to 34 million.[18]

In a meritocracy, education provides mobility up the rungs of the social ladder.

Increasing Economic Affluence is the eighth major trend

One of the notable characteristics of the industrialized nations of the West which parallels democratization is the increasing economic well-being of the majority of the population known as the "middle class." As John Kenneth Galbraith notes in his book, *The Affluent Society*, poverty still exists in our country, but it has changed from a problem of the majority to a problem of the minority.[19]

Throughout history poverty has been the rule rather than the exception. But as economists have been pointing out with respect to Europe and the United States, there has been a very large increase in the proportion of disposable income (income after taxes) in the hands of people in the middle and lower economic brackets.[20] Increasing tax rates have restrained the concentration of income at the top, while upward pressures on wages have increased well-being at the bottom.

Burnham Beckwith notes that in the United States average real income per person has "roughly doubled every 50 years for a century or two, and . . . will probably rise even faster in the next 100 years."[21]

This trend reflecting the economic strengthening of the middle levels of American society is expected to continue. The White House Conference on the Industrial World Ahead which met in Washington on February 7–9, 1972, concluded that by 1990, families with incomes in excess of $15,000, in 1971 dollars, would number over 40 million and account for approximately 60 percent of all families.[22] At the same time, the number of families earning less than $5,000 is expected to drop well below 10 million.

Despite this "rosy glow" picture of economic growth and affluence for middle income groups in our society, poverty is still with us. The problem we should address here is not the persistence of poverty in a sea of affluence, but the inequity in the distribution of poverty. According to data provided by the U.S. Bureau of the Census, poverty is definitely declining. In 1960, for example, the Bureau classified more than one out of every five, as living below the poverty level. In 1971, by contrast, there were about one out of eight, classified as officially poor.[23] And while the economic situation of the American Negro has been steadily improving, the fact remains that in 1971 while 11 percent of the American population was classified as poor, 33 percent of all blacks were so classified.

On the basis of past increases in black incomes relative to whites, Burnham Beckwith forecasts that blacks will earn 65 percent of white incomes by the year 2000 and above 90 percent by 2200.[24] But it is more likely that Negroes will be aware of persisting differences in their incomes and white incomes. If one is a black wage earner, the year 2200 may be a long time to wait for economic equality.

The U.S. Bureau of the Census reports that blacks are paid less than whites for comparable work.[25] Whereas the median income of white male "professional, managerial, the kindred workers" was $8,305, it was only $5,921 for the same category of blacks was only $7,659. Similarly, while the white median income for "craftsmen, foremen, and kindred workers" was $8,305, it was only $5,921 for blacks.[26] Smaller but similar black-white discrepancies appeared even among male laborers and female clerks. Economic injustice has always been a source of friction in social systems; and there is no reason to believe this will not continue to be the case in our country.

We come now to the most disturbing data provided by the U.S. Bureau of the Census. During the period from

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[14] Jose Ortega y Gasset, *The Revolt of the Masses*, New York: W. W. Norton and Co., Inc., 1932, p. 15.

[15] *Manpower Report of the President*, U.S. Department of Labor, U.S. Government Printing Office, Washington, D.C., March 1973, p. 65.

[16] Abbott L. Ferriss, *Indicators of Trends in American Education*, New York: Russell Sage Foundation, 1969, p. 24.

[17] Wilbur J. Cohen, "Education and Learning," *The Annals of the American Academy of Political and Social Science*, Vol. 373, September 1967, p. 82.

[18] *Ibid.*, p. 84.

[19] John Kenneth Galbraith, *The Affluent Society*, Boston: Houghton Mifflin Co., 1958, p. 323.

[20] *Ibid.*, p. 85.

[21] *Ibid.*, p. 90.

[22] U.S. Department of Commerce, *A Look at Business in 1990*, Washington, D.C.: U.S. Government Printing Office, November 1972, p. 55.

[23] Reported in the *Los Angeles Times*, July 18, 1972.

[24] Burnham P. Beckwith, *The Next 500 Years: Scientific Predictions of Major Social Trends*, New York, Exposition Press, 1967, p. 73.

[25] Reported in the *Los Angeles Times*, October 15, 1972.

[26] *Ibid.*

1960 to 1972, Negroes had twice as much unemployment as whites.[27] Data on unemployment also show that the highest rates are concentrated in "urban low income" areas and that Negro youths in the 16 to 19 age category had an unemployment rate in 1971 of 38 percent compared to a rate of 20 percent for their white counterparts![28]

Thus the available data indicate that while economic conditions have been improving steadily and have benefited the middle income groups, poverty persists and is especially prevalent among blacks. For these people the "culture of poverty" remains a reality to be reckoned with.

Professionalization is the ninth major trend

Professionalization may be defined as a process in which a larger proportion of the total population of a society earn their living in occupations requiring specialized knowledge and often long and intensive academic preparation. The growth of the professions may be attributed to the broadening base of knowledge derived from the applications of science and technology, the increasing complexity and sophistication of industrial production, and the increasing range and complexity of services required in a modern, post-industrial society.

According to the U.S. Department of Labor, the employment growth in the category it calls "professional, technical, and kindred" workers has grown faster than all other major occupational groups in recent decades. From less than a million workers in 1890 the number of workers in this category grew to 10.3 million in 1968.[29] The Department anticipates that the "requirements for these occupations will continue to lead other categories between 1968 and 1980, increasing half again in size. . . ."[30] By 1980, employment in this occupational category may constitute 16.3 percent of total employment.[31]

In 1900 only about 20 out of every 1,000 23-year-olds obtained B.A. degrees; by 1970 the ratio had risen to about 210 per 1,000.[32] But while the number of baccalaureate degrees only doubled during the 1960–1970 decade, Master's degrees increased 165 percent during the same period and Ph.D. degrees increased over 100 percent![33]

While the enrollment of Negroes in colleges and universities is increasing, black students remain "substantially underrepresented in higher education, since they account for only 6.6 percent of full-time college enrollments but make up about 11 percent of the college age population."[34] At the graduate and professional levels, the percentage of Negroes is lower still: they comprise only 4.1 percent of graduate and professional students. Thus, in the professions, as in other aspects of American society, the Negro is not yet a full and equal participant.

Bureaucratization is the tenth major trend

In recent years numerous scholarly works have called attention to and described in detail the growth and characteristics of large-scale organization in the United States. Each of these studies documents the fact that, increasingly, Americans study, live, work, and play in large organizations. According to Robert Presthus, "by the 1930's the trend (of increasing size in industry) had culminated in the organizational society."[35] American society had evolved "from a primarily rural, agricultural, competitive, and rather individualistic society to an urban-industrial complex whose major social activities are carried on by huge bureaucratic structures."[36]

John Kenneth Galbraith finds that the 500 largest industrial corporations accounted for 64 percent of all the industrial sales in the United States.[37] In the sphere of government, the services of Federal, state and local governments accounted for only 8 percent of all economic activity in 1929, whereas in 1969 this proportion had climbed to approximately one-quarter of the total.[38] This figure, he points out, exceeds the government's share in many socialist states, such as India, Sweden, and Norway.

Data on the growth of government employment of all types indicate an actual growth from about 7.5 million in 1950 to 14 million in 1970 and an estimated growth to 20 million by 1990.

Peter M. Blau lists the four basic attributes of a bureaucratic organization: specialization, a hierarchy of authority (chain of command), a system of rules, and impersonality.[39] Factories, government agencies, prisons, schools, and many other organizations in our society possess these features. "In contemporary society bureaucracy has become a dominant institution, indeed, the institution that epitomizes the modern era. Unless we understand this institutional form, we cannot understand the social life of today."

While bureaucracies are essential to handle the large-scale operations typical of today, **they also possess certain difficulties which sociologists refer to as "dysfunctions."**[40] **These are (1) "trained incapacity," or a state of affairs in which one's specialized abilities function as inadequacies or blind spots; and (2) "displacement of goals," that is, the means—the rules and regulations established to achieve certain ends—tend to replace the ends** in day-to-day operations. No large-scale organization is immune to these bureaucratic dysfunctions.

A problem in criminal justice is bureaucratic organization. During the period of immediate concern, the 1970–1980 decade, criminal justice personnel must learn to live with bureaucratic structures, while at the same time learning to make them more adaptable to a rapidly changing environment.

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[27] U.S. Bureau of the Census, *Statistical Abstract of the United States: 1972* (93rd edition), Washington, D.C., 1972, Table No. 351, p. 221.

[28] *Ibid.*, Table No. 356, p. 223.

[29] U.S. Department of Labor, *The U.S. Economy in 1980*, Bulletin 1673, Washington, D.C.: U.S. Government Printing Office, 1970, p. 23.

[30] *Ibid.*

[31] *Ibid.*

[32] Abbott L. Ferriss, *Indicators of Trends in American Education*, New York: Russell Sage Foundation, 1969, Figure 5.6, p. 117.

[33] U.S. Department of Labor, *Manpower Report of the President*, Washington, D.C.: U.S. Government Printing Office, March 1970, p. 108.

[34] *Scientific Engineering, Technical Manpower Comments*, Scientific Manpower Commission, Washington, D.C., Vol. 8, No. 10, October 1971, p. 10.

[35] Robert Presthus, *The Organizational Society*, New York: Vintage Books, 1965 edition, p. 59.

[36] *Ibid.*, p. 62.

[37] John Kenneth Galbraith, *The New Industrial State*, Boston: Houghton Mifflin, second edition, 1971, p. 1.

[38] *Ibid.*, p. 2.

[39] Peter M. Blau, *Bureaucracy in Modern Society*, New York: Random House, 1956, p. 19.

[40] Pitirim A. Sorokin, *Social and Cultural Dynamics*, Boston: Extending Horizon Books, one volume edition, 1957, p. 27.

Countertrends

A few words need to be said about countertrends to some of the trends described herein.

The population growth rate is declining due to a number of countertrends which restrict family size, but population growth is assured despite them throughout the remainder of this century.

Urbanization is expected to continue, although many people are becoming increasingly disenchanted with urban life and are moving away from the cities. This could become significant in the future if major technological breakthroughs should occur in transportation or communication.

Many young people seem to be searching for a new morality. This might presage the end of the long-range trend toward secularization. There appears to be a growth of interest in oriental religions, mysticism, superstition, and astrology, but it is difficult to say at this point how strong this anti-secular, antiscience movement may become.

It has been noted that egalitarianism and meritocracy are in conflict. Egalitarianism means the participation of more people in important decisions—"participant democracy." But in a meritocracy, decisions tend to be made in secret by the professional elite, although politicians may take the credit. While the resolution of this impasse is difficult to foresee, the growing equality of all men and women before the law seems assured.

Just a year ago, increasing economic affluence for the middle income groups seemed certain to continue indefinitely. Now, due to inflation and the emergence of a scarcity of fuel, food, and other resources, the real income of the average man may fail to grow at the rate envisioned. It remains to be seen whether or not inflation and a general reduction of the quality of life will wipe out the long-range gains of the middle income groups. We can be sure that the lower income groups will suffer the most.

There does not appear to be any countertrend to the growth of professionalization. The demand for higher education seems to be a cultural phenomenon which is somewhat independent of the actual requirements for employment.

Finally, there is a countertrend to bureaucratization variously termed "participant democracy," "lateral organization," "adhocracy," etc. Some writers, such as Alvin Toffler, are forecasting the demise of bureaucracy and its replacement by a new type of organization in which the organization man's role will be constantly changing and varied. It is difficult to say how rapidly this change is occurring and how widely it may spread. In the field of criminal justice, we are likely to see more bureaucratization rather than less during the 1970–1980 decade. . . .

An increase in crime is highly probable in the remainder of this century. More crimes may be committed as our population continues to grow; as the process of urbanization continues and more of our largest cities become ghettos composed largely of the poor, the young, and the black; as the inhibitions and restraints imposed by religious morality continue to weaken in an increasingly secularized society; as women and teenagers feel increasingly free to go their own way in a society liberated from the prejudices of the past; as increasing economic affluence brings the differences between the well-to-do and those caught in the "culture of poverty" into sharper focus; as the material goods of a growing middle income group increase and become more vulnerable to criminal acts; as higher professional standards make employment more difficult for millions of inadequately educated citizens and contribute to a widening cultural gulf between white and minority group citizens; as the employment opportunities for the illiterate, uneducated and undereducated in post-industrialized society decline relative to the opportunities for those trained in professional and technical skills; and as the process of bureaucratization alienates an increasing number of citizens from the administration of justice and makes the larger police departments in urban centers more efficient but less responsive to the needs of the populations they serve, and less adaptable to a rapidly changing social environment.

Taken in their totality, (these ten) trends are indicative of the extraordinary changes occurring in our society and the acceleration of those changes. This condition of change also supports the conclusion that crime will increase throughout this century. Morality and standards of accepted behavior tend to break down when people are uprooted from their communities, families, and friends and migrate to the isolation and strangeness of the city.[41] Sociologists and anthropologists have long noted that crime is relatively rare in stable societies and tends to increase as traditional cultural and social patterns change.

We are living through a period characterized by some observers as a "moral revolution."[42] Changing moral attitudes and behavior will probably result in increasing law violations in such areas as vice and white-collar crime. If the community does not decriminalize the so-called victimless crimes, efforts to enforce the laws in these areas will place increasing strain on the police officer and there will be increasing tensions between law enforcement agencies and the public.

The women's liberation movement reflects a long-range trend which may not only give women more equality in the social, political, and economic spheres but it may also contribute to a higher rate of crime committed by women. If true, a larger proportion of the resources of criminal justice will have to be devoted to female offenders. This, in turn, suggests the need for criminal justice to employ a larger proportion of females in law enforcement, probation and parole, and in correctional programs and institutions.

Crime rates are likely to increase for the non-white groups as a greater proportion of their young people in the 15 to 24 age category, trapped in urban slums and inadequately educated, may find themselves increasingly unemployable. Inflation may contribute to this. It may become increasingly difficult for lower socio-economic and minority groups to participate in the mainstream of American life. And as sociologists have noted, when legitimate channels for "getting in the money" are blocked, there is intense pressure to achieve the cultural values of success through deviant, i.e., criminal behavior.

Numerous indicators in the several trends described in this paper point to the special circumstances of the "young-poor-black" in our society and suggest that this group will probably contribute a disproportionate share of illegal behavior, particularly acts of violence typical of the juvenile delinquent subculture.

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[41] For a study of these relationships see Robert Redfield, *The Folk Culture of Yucatan*, Chicago: The University of Chicago Press, 1941.

[42] William F. Ogburn, *On Culture and Social Change*, O. D. Duncan, (ed.) Chicago: The University of Chicago Press, 1964, p. 61.

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APPENDIX 4

SUGGESTED IMPLEMENTATION PROCEDURES—FAMILIES WITH SERVICE NEEDS

The Families With Service Needs concept was developed by the Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention to serve as a basic outline for a realistic and well-planned judicial mechanism for family court intervention on the basis of the behaviors specifically defined in the chapter dealing with Families With Service Needs, Standards 10.1 through 10.8. The focus of the Families With Service Needs proceeding is on the juvenile and/or family's need for court ordered services because of one or more of the defined behaviors. The concept, as envisioned by the Task Force, provides for the family court to be the agency of last resort in dealing with these behaviors, placing great emphasis on the exploration and exhaustion of noncoercive community resources before any family court action is taken. Once jurisdiction is established, it extends to the juvenile, the family, and any public institution or agency with the legal responsibility or discretionary ability to provide needed services for the child and/or family.

The Families With Service Needs jurisdictional basis is much more extensive and involved than the status offense jurisdiction of most current juvenile or family court legislative structures. To adopt the Families With Service Needs approach, therefore, most States would have to develop some kind of plan for implementing the standards and the concepts embodied in them. Because each individual State's present statutory scheme, developed case law, and service delivery system are different, the needs of each State in drawing up this plan will be different.

It is impossible, within the scope of this volume, to draft specific legislation or even to make exhaustive recommendations concerning the content of legislation needed to implement the Families With Service Needs standards. The standards and commentaries contained in Chapter 10 of this volume highlight the most important aspects of the Families With Service Needs philosophy. It is ultimately up to the individual jurisdictions to find the most effective manner in which to fit this concept into their statutory scheme.

The Task Force does, however, feel compelled to suggest plans that States might consider in implementing the Families With Service Needs standards and to highlight some of the important problems that each State will have to resolve.

Implementation Strategy: Inherent Powers of the Court, or Statutory Authorization. State plans for implementation of the Families With Service Needs standards could seek to achieve such implementation through a reliance on the doctrine of the inherent powers of the court. This doctrine has its roots in our constitutional system of the separation of powers. If the judiciary is to be an effective, coequal branch, its powers must include authority to do all things reasonably necessary to carry out its mandates and to administer justice. This means it must possess the authority to incur, and to order paid, such expenses as are necessary to the performance of its judicial functions. Historically, the doctrine of inherent powers has been used by courts to secure necessary personnel, physical facilities, or essential supplies for the court, and to protect the functional integrity of the court itself.

In a number of recent cases, however, the inherent powers doctrine has been used to mandate such services or treatment as those contemplated by the Families With Service Needs standards. For example, a Minnesota court has held that the judicial branch may require the executive branch to provide for the needs of the judicial branch, including a better program for rehabilitation of children.[1] The inherent powers have been held to include the authority to select and appoint as many employees as are reasonably necessary to carry out the court's duties of care, discipline, detention, and protection of children.[2] Courts have also ordered the State to establish separate facilities for juveniles at State correctional institutions[3] and the county to provide daily transportation for a neglected deaf-mute child to a place where he can obtain special instruction appropriate to his needs.[4]

Reliance on the inherent powers doctrine for implementation of these standards, however, has a number of drawbacks. Considerations of political reality suggest that the doctrine will not be invoked as often as the needs of the child and family may require. Furthermore, the boundaries of the court's power to act in a range of different circumstances would have to be carved out through the lengthy and often cumbersome process of case-by-case appellate litigation. Cases lack the binding effect of precedent unless they are appealed and reported, and it is to be expected that many—if not most—of the cases in which the court might intervene under these standards would not be appealed. Finally, the doctrine has in the past been used sparingly and its efficacy has sometimes been denied. It has been held, for example, that in the absence of specific statutory authorization, a court lacks power to order that a parent participate in a drug treatment program with a child who has been declared a ward.[5]

For these reasons, the task force recommends that the Families With Service Needs standards be implemented through a clear and precise statutory scheme. It appears that with the proper statutory authority, the family court could issue a wide variety of orders that would be necessary to implement the goals of these standards.

A useful model exists in a New York statute empowering the family court to order the cooperation of officials and organizations but not of parents or other family members.[6] A wide range of orders have been issued pursuant to this statute.[7]

Three additional sections of the New York Family Court Act provide for orders of protection in family proceedings.[8] A case settled approximately 7 years ago illustrates the breadth of orders a court can issue under these sections: the court issued a protective order requiring a son to live with his grandparents, to stay away from the home of his parents, to refrain from using or possessing drugs, and to receive outpatient therapy for drug addiction.[9] Delaware also has statutes conferring a broad protective power in family court matters.[10]

The Task Force believes the development of a clear and unambiguous statutory description of the Families With Service Needs jurisdiction seems to be the best and most effective way in which to carry out the spirit of the Familes With Service Needs concept as the Task Force has developed it. The following paragraphs contain some general recommendations as to what provisions these statutes should contain, and the problems and issues they should address.

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[1] *In re Welfare of J.E.C.*, Case # 75604, Dist. Ct. of Hennepin Co., 6 Juvenile Court Digest 464 (Minn. 1975).

[2] *State ex rel. Weinstein v. St. Louis Co.*, 451 S.W. 2d 99 (Mo. 1970).

[3] *In re Parker*, 310 A.2d 414 (Pa. 1973).

[4] *In re Harris*, No. 66J(D)7222, Cir. Ct. of Cook Co., 1 Juvenile Court Digest 9 (March 1968); 2 Crim. L. Rptr. 2412 (Ill. 1968).

[5] *State v. In Interest of S.M.G.*, 313 So. 2d 761 (Fla. 1975).

[6] New York Family Court Act, section 255.

[7] A county department was ordered to help a father prepare for the return of a child, *In re Sharon A.*, 79 Misc. 2d 214, 359 N.Y.S. 2d 747 (Fam. Ct. Kings Co. 1974); a county department was ordered to place a delinquent in a nonsecure facility, *In re Norman C.*, 74 Misc. 2d 710, 345 N.Y.S. 2d 338 (Fam. Ct. Kings Co. 1973); a school district was ordered to accept a child from outside its normal boundaries, *In re John M.*, 75 Misc. 2d 672, 347 N.Y.S. 2d 866 (Fam. Ct. Kings Co. 1973); the State Department of Mental Hygiene was ordered to find or create a suitable facility for a delinquent who was mildly retarded, *In re Leopoldo Z.*, 78 Misc. 2d 866, 358 N.Y.S. 2d 811 (Fam. Ct. Kings Co. 1974); a Commissioner of Public Services was ordered to place a child in his custody with a foster parent, *In re Samantha S.*, 80 Misc. 2d 217, 362 N.W.S. 2d 291 (1974).

[8] New York Family Court Act, sections 759, 842 and 1056.

[9] *S.V.S.*, 60 Misc. 2d 359, 303 N.Y.S. 2d 166 (1969).

[10] 10 Delaware Code section 925 (15), 950(5).

General Purpose Section. First, the Task Force recommends that the statutory scheme contain a general purpose section. Such a general advisory section will aid the courts in interpreting the statute in a manner consistent with the purpose of the overall scheme. The following example of such a general purpose section seeks to incorporate the overall purpose of the Families With Service Needs standards and is generally modeled on the New York Family Court Act, sections 141 and 811, and 10 Delaware Code, section 902.

> The purposes of this Act are to protect children from the imperiling effects of their own behavior; to provide a forum where they can seek relief from intolerable family circumstances; and to provide legal processes of intervention and assistance in which the emphasis is upon the family and other persons with a significant relationship with the child, rather than upon the individual child and his or her treatment, to the end that the family and institutional contexts in which children's behavior occurs shall not be overlooked, and appropriate resolutions of familial problems may be obtained. The only conduct that warrants court intervention under this Act is conduct that is clearly self-destructive or otherwise harmful to the child, as described in Sections ———. [See Standards 10.4 through 10.8.]
>
> Once it is determined that court intervention is necessary, the court is given a wide range of powers for dealing with the complexities of family life so that its action may fit the particular needs of those before it. The judges of the court are thus given a wide discretion and grave responsibilities. The court shall endeavor to provide for each person coming under its jurisdiction such control, care, and treatment as will best serve the interests of the child, the family, and the public.

Jurisdictional Statutes. A review of recently proposed legislation concerning status offenders evidences a trend toward drafting lengthy qualifications for defining status offense behavior—requiring, for example, that the status offender be "in need of care or treatment." This approach is commendable because it is intended to limit the application of court authority. The use of definitional sections for this purpose, however, is not an effective approach. The Task Force believes that a preferable method is to specify very carefully each decisionmaking juncture in the court process, defining the process to be followed, the criteria to be applied, and the permissible outcomes available.

For example, the Families With Service Needs standards require the family court to make three findings before exercising jurisdiction over any of the behavior defined in that jurisdictional section. They are 1) that one or more of the behaviors has occurred, 2) that all available noncercive community resources have been exhausted, and 3) that the behavior evidences a clear need for court intervention to provide services. The necessity for making each of these decisions, the method by which the decision is to be made, and the criteria to be considered should be very carefully spelled out in the statutes.

Service of Process and Notice. The jurisdictional scheme posited by the standard contemplates that the court will be empowered to direct people to act or refrain from acting. Jurisdiction in personam over such persons will therefore be required. The basic rule governing the acquisition of jurisdiction in personam requires the personal service of process within the State. Parties can also consent to personal jurisdiction or be subject to jurisdiction in personam if they make a general appearance in court. Additionally, in order to acquire jurisdiction, notice to those whose rights might be affected by the proceeding is constitutionally required. Such notice must be sufficiently timely and specific to allow the party receiving it to prepare a defense. Persons to whom notice may be required in Families With Service Needs proceedings are the juvenile, parents, and any State agency or institution or other individual who may be subject to court order by virtue of the court's proceedings.

State jurisdictional statutes under the Families With Service Needs proceedings should outline detailed procedures for compliance with the above requirements. Also, the court's ability to assert jurisdiction over an out-of-State parent or other person having a significant relationship with the child in question may be an important factor in the effectiveness of these standards. This problem will have to be resolved State by State, based on the existing statutory scheme and decisional law of each individual State.

Scope of Jurisdiction. State statutes should set out very precisely the individuals and agencies over which the family court will have jurisdiction by means of a Families With Service Needs proceeding (see Standard 10.3, Scope of Jurisdiction). In addition, States should make it the statutory duty of any State, county, and municipal officer and employee to render any assistance and cooperation within his or her legal authority that will further the objects of the Families With Service Needs proceedings. State courts should also have clear statutory authorization to seek the cooperation of all persons, societies, or organizations, both public and private, having as their object the protection or aid of children or families.[11]

Dispositional Alternatives. State statutes should enumerate the dispositional alternatives that will be available to the family court in any Families With

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[11] See New York Family Court Act, section 255.

Service Needs proceeding (see Standard 14.23, Families With Service Needs—Dispositional Alternatives). To avoid lengthy litigation, some of the more frequently used court orders could be statutorily enumerated—such as orders requiring the juvenile and/or family to participate in individual or family counseling with an appropriate agency or practitioner. In addition, there should be a more general dispositional section authorizing the family court to enter such orders against any party to the proceedings as the principles of equity may require.

Finally, each State should enact statutes that state very clearly the limitations of the courts' dispositional authority under Families With Service Needs jurisdiction. The statutes should be drafted to explicitly remove from family court any authority to commit a child, pursuant to a Families With Service Needs proceeding, to any of the kinds of institutions enumerated in Standard 14.23 (Families With Service Needs—Dispositional Alternatives).

Services. In order for the Families With Service Needs to be a viable concept, it must be backed by a wide range of community services. A stable, accountable, and adequately funded system of voluntary services to children and families is essential if the family court is to become the agency of last resort in efforts to deal with Families With Service Needs. In some localities, youth-serving agencies, frequently referred to as Youth Service Bureaus, already provide many effective services to young people involved in family conflict situations. Services offered include counseling, drug treatment, job assistance, recreational programs, and educational assistance. The best of these programs should be accorded continued support. Building on the evidence of program strengths and weaknesses that has become available over the past several years, additional comprehensive voluntary service systems for children and families should be developed.

One important example of a needed comprehensive service system is in the area of programs specifically designed for runaway children. If voluntary assistance to runaway youths is to supplant family court involvement in a high percentage of cases, runaway programs will have to be developed by the State and by local communities.

One of the most widespread community-based types of program for runaways is the runaway house. Such a house offers services both on a crisis-center basis to youths dropping in for help and on a relatively longer term basis for youths actually staying in a residential unit. The runaway house offers temporary shelter and intensive short term counseling to youth.

Local zoning ordinances are invariably a threshold barrier to the location of runaway houses. The basic problem is that such ordinances rarely authorize such a home; underlying this problem is the fear homeowners in the community may have of such a facility. This fear is often reflected by the zoning board that ultimately will have to approve or disapprove the facility.

Local building and health codes also present formidable problems to establishing a runaway house. If the local municipality seeks to deem the facility an institution, extensive alterations resulting in large expenditures of money may be required to comply with code provisions. These codes may also be a means to discourage the establishment of such a facility.

Aiding the runaway child in most States presents a substantial likelihood of prosecution. Without permission from the child's parent or guardian, the youth worker runs the risk of prosecution for harboring a runaway child, contributing to the delinquency of a minor, or for violating a similar criminal statute. Many youth workers so fear the legal implications, having had bad experiences with either the police or with angry parents, that they refuse to deal with the runaway child at all. All runaway houses, as a matter of necessity, have some kind of agreement with police officials and/or with the prosecuting attorney for a short grace period during which a young person may be housed and counseled without parental approval. These agreements typically are informal, tenuous, and unenforceable; thus they give the youth worker little comfort. Harboring and contributing statutes should be amended to allow persons to house runaway children in licensed runaway houses without parental permission for a certain number of days.

A closely related issue is the potential liability for interfering with the parents' right to control, discipline, and supervise their child. Costly insurance coverage is purchased by a number of runaway projects. Legislation authorizing runaway projects to care for and counsel young people temporarily would eliminate this problem.

Intake Procedure and Personnel. The intake process in Families With Service Needs serves the following important functions: to screen out cases that are not properly within the court's jurisdiction; to reduce the considerable demands on limited court resources to manageable levels; and most importantly, to obtain assistance from community agencies in cases where the authority of the court is not necessary to provide needed services to children and their families. The Task Force believes that the intake stage is particularly important in Families

With Service Needs because a high percentage of such cases can and should be handled effectively without official court intervention. Because this stage in Families With Service Needs proceedings should serve to accomplish the referral of many juveniles and families to other community services, the intake worker's role as a service broker should be emphasized, and he or she should be familiar with the range of community services available.

Legislation should require that whenever a school official, parent, relative, law enforcement official, or child requests that a Families With Service Needs petition be filed in family court, intake personnel should be required to approve the filing of this petition. Such an approval should include certification that an effort has been made to resolve the matter voluntarily, and give reasons why the action requested by the court cannot be accomplished by similar agency action on a voluntary basis. This will provide a basis for the court's finding, pursuant to Standard 10.2, that all available noncoercive alternatives to solve the juvenile's or family's problem have been explored and exhausted.

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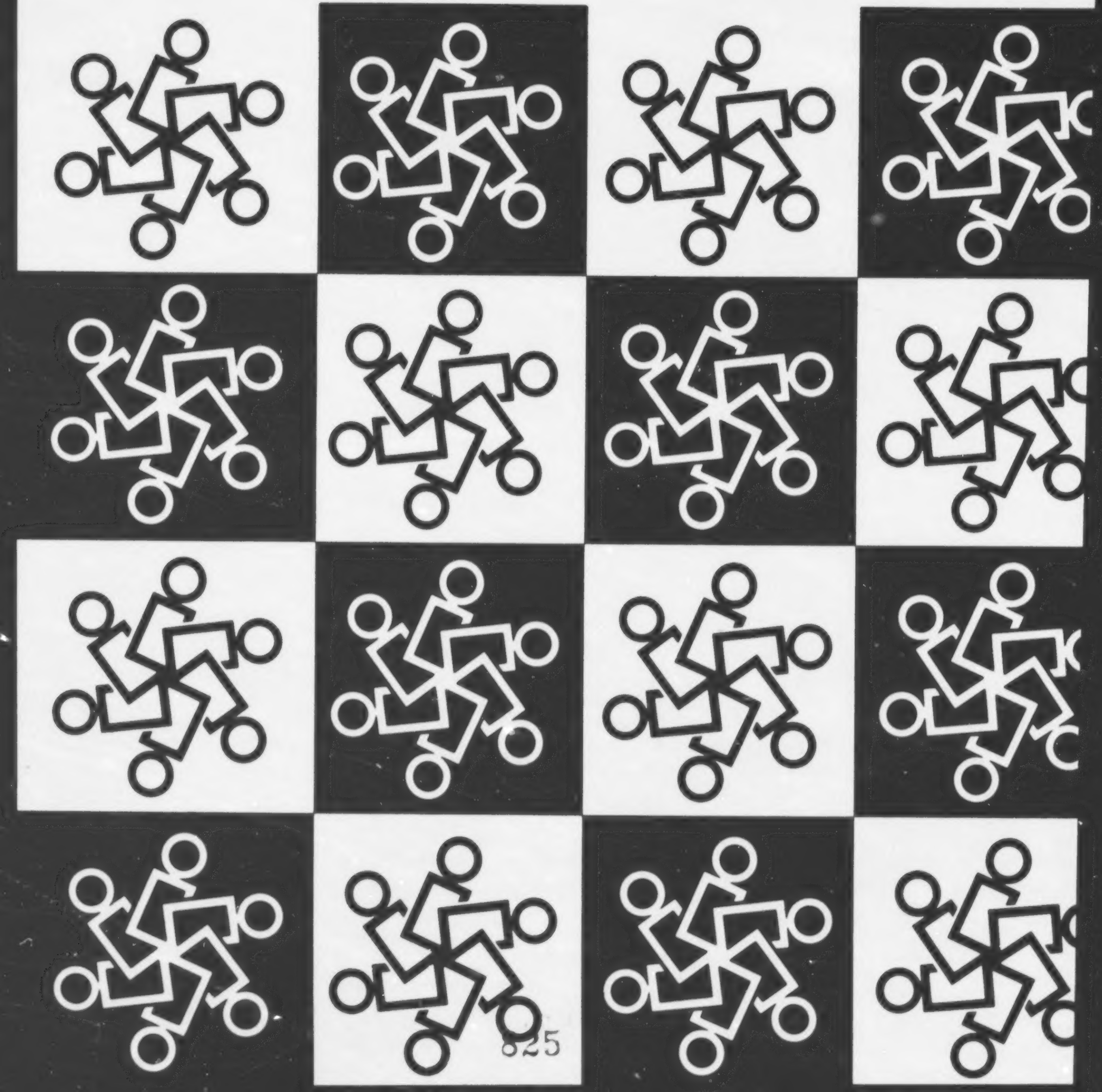

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Brendan T. Byrne was elected as the 54th Governor of New Jersey on Nov. 6, 1973, by the largest plurality ever awarded to a gubernatorial candidate in State history.

Governor Byrne was born on April 1, 1924, in West Orange, N.J. He was educated in West Orange public schools.

Governor Byrne was commissioned a lieutenant in the Army Air Corps in March 1943, and served as a squadron navigator in the European Theater. He was honorably discharged in September 1945, having been awarded the Distinguished Flying Cross and four Air Medals.

He was graduated from the Princeton University School of Public and International Affairs in 1949. He received his law degree from Harvard University, served his legal clerkship with Judge Joseph Weintraub (who later became Chief Justice of the New Jersey Supreme Court) and, upon admission to the bar, practiced law in Newark and East Orange.

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While a prosecutor, Governor Byrne served as president of the County Prosecutors' Association of New Jersey and as vice president of the National District Attorneys' Association.

In 1968, Governor Hughes appointed him to be president of the New Jersey State Board of Public Utility Commissioners.

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Charles S. House has served as Chief Justice of the Connecticut Supreme Court and as chairman of the Connecticut Adult Probation Commission since 1971.

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Mr. Bilek served in the Chicago Police Department from 1953 to 1962, rising through the ranks to lieutenant and acting director of the training division. He was appointed Chief of the Cook County Sheriff's Police Department in 1962 and was instrumental in professionalizing and reforming that agency while replacing patronage practices with the merit system. Mr. Bilek was cofounder of the Illinois State Police Emergency Radio Network (ISPERN), an all-department, statewide emergency police system. He founded the first degree program in administration of criminal justice in the United States at the University of Illinois, where he was professor of criminal justice from 1967 to 1969. He served as chairman of the Illinois Law Enforcement Commission from 1969 to 1972 and later as Corporate Security Director developed the security program of the Hilton Hotels Corporation.

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The biography of Mr. Breed appears below with those of other members of the Task Force on Juvenile Justice and Delinquency Prevention.

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Doris A. Davis was elected Mayor of Compton, Calif., in 1973, thus becoming the first black woman to hold the office of chief executive of a large metropolitan city.

Prior to her election as mayor, she served as Compton City Clerk for 8 years. Mayor Davis is a member of the State of California Joint Committee for the Revision of Election Laws and of the State of California Joint Committee on the Revision of the Election Code. She is a member of the board of directors of the National Association for the Advancement of Colored People. She also is director of Daisy Child Development Centers, a nonprofit organization that provides services to unwed teenage mothers.

Mayor Davis holds a bachelor of arts degree from the University of Illinois, a master of arts degree from Northeastern University, and a doctor of philosophy degree in public administration from Laurence University, Santa Barbara, Calif.

Lee Johnson

Elected Attorney General of Oregon in 1968, Lee Johnson is currently completing his second 4-year term. He was elected Judge of the Oregon Court of Appeals in 1976 for a 6-year term beginning January 1977.

Mr. Johnson was selected under the Attorney General's Honor Recruitment Program, in 1959, to serve as an antitrust attorney for the U.S. Department of Justice in Washington, D.C. In 1961, he returned to Oregon and began private law practice in Portland. He was elected to the Oregon House of Representatives in 1964 and reelected in 1966. Mr. Johnson has served as a member of the Oregon Criminal Law Revision Commission and the Governor's Commission on Judicial Reform, and as chairman of the Oregon Law Enforcement Council and the Governor's Commission on Organized Crime.

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John F. Kehoe, Jr., is commissioner of public safety for the Commonwealth of Massachusetts. He was appointed to this position in 1971 and was reappointed in 1975.

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Dr. Lejins studied philosophy and law at the University of Latvia. He received his doctorate from the University of Chicago.

Richard C. Wertz

For the past 6 years, Richard C. Wertz has served as executive director of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice. In September of 1976, Mr. Wertz also was appointed to serve as Special Assistant to the Governor of Maryland for Criminal Justice and assigned the task of resolving the State's serious prison overcrowding problem. Mr. Wertz has been an adjunct professor at the Georgetown University Law Center in Washington, D.C., since 1975.

From 1966 to 1970, Mr. Wertz was director of public safety for the Metropolitan Washington Council of Governments. He is immediate past chairman of the National Conference of State Criminal Justice Planning Administrators and a current member of the Advisory and Evaluation Committee of the Council of State Governments' Criminal Justice Research Project. Mr. Wertz is a member of the Advisory Committee on Corrections Reform of the Southern Governors' Conference and the Criminal Justice Advisory Committee of the Council of State Governments' Southern Legislative Conference.

Mr. Wertz holds the bachelor of arts degree in political science from Knox College and the master of business administration degree in public administration from the Wharton Graduate School, University of Pennsylvania.

Jerry V. Wilson

For the past 2 years, Jerry V. Wilson has been project director of a study, conducted by The American University Institute for Advanced Studies in Justice, of the efforts to control crime in the District of Columbia for the period 1955 through 1975.

From 1969 to 1974, Mr. Wilson served as chief of police of the Metropolitan Police Department of Washington, D.C. He joined the force in 1949 and was promoted through the ranks during his 25-year career with the department. He served as budget officer of the department from 1960 to 1965, when he was appointed to head the planning and development unit and the data processing division. He was named assistant chief of police for field operations in 1968.

He is the author of two books, *Police Report* and *Police and the Media*. Mr. Wilson was graduated magna cum laude from The American University in 1975, with a bachelor of science degree in administration of justice.

Pete Wilson

Pete Wilson was elected the nonpartisan mayor of San Diego in 1971 and was reelected in 1975.

Mayor Wilson began his political career in 1966 when he was elected to the California Assembly. A Republican, he won reelection twice. He served on various committees in the legislature, including the Committee on Drug Abuse of the (International) Commission of the Californias. As mayor of San Diego, he has gained recognition as the architect of the city's efforts to control its urban growth through planning. He is a member of many committees and organizations, including the Mayor's Task Force on Drug Abuse Treatment and Prevention, jointly sponsored by the National League of Cities and the U.S. Conference of Mayors.

Mayor Wilson was graduated from Yale University in 1955 and received his law degree from the University of California School of Law at Boalt Hall in 1962.

Task Force on Juvenile Justice and Delinquency Prevention

Allen F. Breed

Allen F. Breed has been director of the Department of the Youth Authority, State of California, since 1967.

Mr. Breed began work in the field of juvenile justice in 1945, as group supervisor at the Stockton Camp. Subsequently, he served in nearly every capacity in juvenile corrections, including superintendent of three youth facilities and administrative superintendent of the Northern California Youth Center. Mr. Breed is chairman of the Center for Correctional Justice, chairman of the American Correctional Association's Council on Youth Correctional Services, a board member of the American Justice Institute and the American Correctional Association, and a member of the Council on Corrections of the National Council on Crime and Delinquency.

Mr. Breed also serves on numerous advisory groups, including the National Advisory Committee on Juvenile Justice and Delinquency Prevention, the National Assessment Study of Correctional Programs for Juvenile and Youthful Offenders, and the American Bar Association's Juvenile Justice Standards Project Joint Commission. He holds the bachelor of arts degree from the University of the Pacific.

Allen H. Andrews, Jr.

Allen H. Andrews, Jr., has been Superintendent of Police for Peoria, Ill., since 1973.

Chief Andrews began his career as City Manager Intern to Peoria during 1954–1956. From 1957 to 1964 he served as Public Safety Officer for Michigan State University's Department of Public Safety and rose through the ranks to Captain. In 1964, he became Director of Public Safety for Grosse Pointe Woods, Mich., and served until 1968, when he joined the Peoria Police Department as Superintendent. In 1972, Chief Andrews became Executive Director of the Illinois Law Enforcement Commission and in 1973, when he was reappointed Superintendent of Police in Peoria, he was named a member of that commission, a post he still holds. From 1965 through 1968, Chief Andrews was chairman of the Michigan Law Enforcement Information Network and, since 1975, chairman of the Standards Committee for the Illinois Association of Chiefs of Police. Chief Andrews served as U.S. Delegate to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Chief Andrews received the bachelor of arts degree from the University of Illinois and the master of science degree from Michigan State University.

Sylvia Bacon

Sylvia Bacon has been an associate judge for the District of Columbia Superior Court since 1970.

Judge Bacon was an assistant U.S. attorney during 1957–1965 and 1969–1970. She served as director of the District of Columbia Crime Commission during 1965–1966. She was a trial attorney in the Criminal Division of the U.S. Department of Justice from 1967 to 1969. She also served as adjunct professor for the Georgetown Law Center from 1965 to 1970. She was a faculty member of the National College for the State Judiciary and the American Academy of Judicial Education from 1973 to 1976. She is chairman of the American Bar Association Committee on Women and Criminal Justice and is a member of the American Bar Association Commission on Correctional Facilities and Services. She was a member of the National Advisory Commission on Criminal Justice Standards and Goals.

Judge Bacon received the bachelor of arts degree from Vassar College, the bachelor of law degree from Harvard, and the master of law degree from the Georgetown University Law Center.

Louis P. Bergna

Louis P. Bergna is the district attorney for Santa Clara County, Calif.

Since 1971, Mr. Bergna has been a member of the Santa Clara County Regional Criminal Justice Planning Board. He is a past president of the California District Attorneys Association and the Santa Clara County Bar Association. He is past chairman of the Task Force on Narcotic, Drug, and Alcohol Abuse and a past member of the California Council on Criminal Justice. In 1962, Mr. Bergna was a California representative to the White House Conference on Narcotics. He was president of the National District Attorneys Association (1975–76) and serves on the American Bar Association's Joint Advisory Committee to Establish Nationwide Standards on Criminal Justice.

Mr. Bergna holds the juris doctor degree from the University of Santa Clara.

A. Bruce Ferguson

A. Bruce Ferguson has been court referee for the Juvenile Division of the San Diego County Superior Court since 1970.

From 1966 to 1970, Mr. Ferguson was deputy district attorney for San Diego County. He was a founding member and chairman of the California State Bar Association Committee for Juvenile Justice, the San Diego County Juvenile Task Force Committee of the California Council on Criminal Justice, and the Juvenile Law Committee of the San Diego County Bar Association. He was founding adjunct professor of juvenile law at the University of San Diego Law School. He also was a founding member of the San Diego Youth Service Bureau's board of directors. He is a past member of the San Diego County Juvenile Protection Committee and the California State Juvenile Officers Association. In 1970, he served as a member of the California delegation to the White House Conference on Children and Youth. Mr. Ferguson is a frequent guest lecturer in juvenile law. He contributed to the booklet entitled "Laws for Youth," developed for the San Diego County Bar Association, and is the author of several articles on juvenile law.

Mr. Ferguson received the bachelor of science degree in engineering from San Diego State University and the juris doctor degree from the University of San Diego.

Peter W. Forsythe

Peter W. Forsythe is vice president and program officer of the Edna McConnell Clark Foundation, New York City.

From 1963 to 1973, Mr. Forsythe was a partner in a private law firm in Ann Arbor, Mich. From 1964 to 1967, he was assistant prosecutor for Washtenaw County, Mich. He was city attorney for Ann Arbor from 1967 to 1969. In 1971, he was appointed by the Governor of Michigan to be the director of the Office of Youth Services and, prior to his present position, was chief administrator of social services of the Michigan Department of Social Services. Mr. Forsythe is cofounder and first president of the Council on Adoptable Children, a board member of the Child Welfare League of America, cofounder of Spaulding for Children, and past vice president of the National Conference on Social Welfare.

Mr. Forsythe received the bachelor of arts and the juris doctor degrees from the University of Michigan.

Edward V. Healey, Jr.

Edward V. Healey, Jr., is an associate justice of the Rhode Island Family Court.

Judge Healey is past president of the National Council of Juvenile Court Judges, former chairman of the board of directors of the National Juvenile Court Foundation, Inc., and an honorary vice president of the International Association of Youth Magistrates.

He was a delegate to the White House Conference on Children in 1970. From 1973 to 1975, he was on the board of fellows of the National Center for Juvenile Justice. He has served as a consultant to the Dade County, Fla., Juvenile Court Study and to the Jamaica Family Court. He was a member of the Advisory Council of the National Center for State Courts from 1971 to 1976 and lectures at Providence College, the University of Rhode Island, Rhode Island College, and Roger Williams College.

Judge Healey received the bachelor of arts degree from Providence College and the bachelor of law degree from the Boston University School of Law.

Tsuguo Ikeda

Tsuguo Ikeda is the executive director of the Seattle Atlantic Street Center, Inc., a private social welfare agency that assists troubled young people. He has held this position since 1953.

Mr. Ikeda has been associated with several juvenile-related projects including: project director, "Effectiveness of Social Group Work on Delinquents"; principal investigator, "Effectiveness of Social Work With Acting-Out Youth"; director of evaluation of Voluntary and Involuntary Transfer, Seattle Public Schools; evaluation of Summer Seek Program; evaluation of Group Homes Project; and project development of the Washington State Plan on Delinquency Prevention. He served as consultant for the Youth Development and Delinquency Prevention Research X Institute, Portland State University, and the Demonstration Project for Asian Americans. He was also a consultant for the Asian American Mental Health Research Center, the Asian American Nurses Demonstration Project, and the Office of Child Development, Region X HEW. Mr. Ikeda served on the National Strategy Committee on Juvenile Delinquency Prevention and the Juvenile Justice Standards Project for the American Bar Association. He is a former member of the board of the National Conference on Social Welfare and the Washington State Law and Justice Committee. He was also president of the Puget Sound Chapter of the National Association of Social Workers.

Mr. Ikeda received the bachelor of arts degree from Lewis and Clark College in Portland, Oreg., and the master of social work from the University of Washington.

Frank N. Jones

Frank N. Jones is the executive director of the National Legal Aid and Defender Association. He has been with the Association since 1971.

From 1964 to 1965, Mr. Jones served as cooperating attorney for the NAACP Educational and Legal Defense Fund, Inc., and the Lawyers Constitutional Defense Committee in Jackson, Miss. He served as an administrative lawyer for the Legal Aid Bureau of Chicago from 1966 to 1969. From 1969 to 1970, he served as deputy associate director of the Office of Economic Opportunity/Office of Legal Services. From 1971 to 1973, he was executive director of the National Legal Aid and Defender Association. In 1973, Mr. Jones accepted an appointed as Vice-Dean of the University of Pennsylvania Law School, Philadelphia, Pa. He returned to the National Legal Aid and Defender Association as executive director in February 1976.

Mr. Jones received a bachelor of education degree from Chicago Teachers College, a bachelor of law degree from DePaul University Law School, and a master of law degree in criminal justice from New York University Law Center.

Richard Moreno

Richard Moreno has been chief juvenile probation officer for the Bexar County Juvenile Probation Department in San Antonio, Tex., since 1969.

Mr. Moreno has worked in juvenile corrections for more than 25 years, rising through the ranks of the Bexar County Juvenile Probation Department from assistant probation officer in 1951, to caseworker supervisor in 1957, to assistant chief probation officer in 1960, and to his present position in 1969. Mr. Moreno is a frequent guest lecturer on corrections and juvenile delinquency. He also serves as practicum instructor at the Worden School of Social Service. He is a member of the National Council on Crime and Delinquency, the Texas Probation Association, the Texas Corrections Association, the Executive Committee of the Metropolitan Youth Agency, the Criminal Justice Planning Committee of the Alamo Area Council of Governments (AACOG), the Drug Abuse Advisory Committee of AACOG, and the Advisory Board of "New Directions," a drug treatment program. In 1972 and 1973, he participated in the National Symposium on Alternatives to Incarceration. He is a past member of the Advisory Board of the Texas Probation Training Project and the Board of Directors of Half-Way House, Inc.

Mr. Moreno received the bachelor of arts degree in sociology from St. Mary's University and the master of social work degree from Our Lady of the Lake University.

Brenda Nell Stots

Brenda Nell Stots is a social worker with the DePelchin Faith Home in Houston, Tex., where she has been working with the children in the facility since 1974.

Mrs. Stots has served as a social worker for children in foster care with the Harris County Child Welfare Office and as a social work therapist for children and their parents at the Texas Research Institute of Mental Sciences. Both agencies are located in Houston, Tex. She is a member of the National Association of Social Workers and the National Association of Black Social Workers.

Mrs. Stots received the bachelor of arts, teacher's certificate, and master of social work degrees from the University of Houston.

Francis A. Tyce

Francis A. Tyce is medical director and chief executive officer of the Rochester State Hospital in Minnesota, a position he has held since 1960.

From 1957 to 1959, Dr. Tyce was first assistant in the Department of Psychiatry at the Mayo Clinic. He is assistant professor of psychiatry at the Mayo Graduate School of Medicine, University of Minnesota, and at the Mayo Medical School in Rochester, Minn. In 1967, he was appointed a consultant in administrative psychiatry to the World Health Organization and was president of the Association of Medical Superintendents of Mental Hospitals. In 1973, he served as chairman of the American Psychiatric Association's Task Force Committee on Psychiatric Rehabilitation in Correctional Systems. He has served on a number of Minnesota mental health committees. He has written many articles concerning offender rehabilitation and training.

Dr. Tyce received the bachelor of science and doctor of medicine degrees from the University of Durham, England, and the master of science degree in psychiatry from the University of Minnesota.

Edward L. Whigham

Edward L. Whigham was appointed professor and chairman of the Division of Educational Leadership, University of Alabama, Birmingham, in November 1976. Prior to that time, since 1968, he had been superintendent of schools for Dade County, Fla.

Dr. Whigham started his education career in 1945 as a public school teacher and, later, as a principal for various high schools in Georgia. From 1954 to 1962, he was assistant superintendent of schools in Wilmington, Del., and from 1962 to 1965, he was superintendent of schools for Oak Ridge, Tenn. In 1965, he became deputy superintendent of schools for Dade County, Fla. Dr. Whigham is a member of the Executive Committee of the American Association of School Administrators; the Board of Directors for the Council of Great City Schools; the Executive Council of the Commission on Colleges, Southern Association of Colleges and Schools; Florida Assciation of School Superintendents; the State of Florida's Task Force on Juvenile Delinquency; and the Dade County Criminal Justice Advisory Council. In 1974, he was selected as a member of the U.S. Delegation to the International Conference on Educational Administration.

Dr. Whigham received the bachelor of arts degree from Emory University, the master of education degree from the University of Georgia, and the doctor of philosophy degree from New York University.

Beverly Ann Young

Beverly Ann Young has served since 1969 as a volunteer psychological aide and case aide for the Juvenile Bureau of the District Court Juvenile and Family Relations Division in Tulsa, Okla.

Mrs. Young's volunteer efforts have included associations with the Lakeside Home, a treatment center for delinquents; Tulsa Boys Home; the Street School; and the Community-Based Treatment Center for Women. She is a member of the Oklahoma Governor's Advisory Committee on Criminal Justice, the Advisory Board for Criminal Justice and Juvenile Delinquency Planning of the Indian Nations Council of Governments, the Council for Children With Learning Disabilities of the Greater Tulsa Area, and the Junior League of Tulsa, Inc.

Mrs. Young attended the University of Oklahoma in Norman, Okla.

Task Force Staff Director

Robert C. Cushman

Robert C. Cushman has been associated with the American Justice Institute (AJI) since 1967.

From 1960 to 1967, Mr. Cushman served the California Rehabilitation Center, California Department of Corrections, as counselor, supervisor, and assistant to the superintendent. In 1967, he joined AJI and served as assistant director and, subsequently, as director of the Model Community Correctional Program from 1967 to 1969. In 1970, he was director of the first of eight Pilot City Programs funded by LEAA. He has served as a consultant to private and public organizations. He is the author of several articles and reports and is a frequent guest lecturer at colleges and universities.

Mr. Cushman received the bachelor of arts degree in sociology from Pomona College and the master of arts degree in government administration from Claremont Graduate School.

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